



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.274 of 2015

Date of order: 27.7.16.

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member

1. ILA GHOSH
2. KAUSHIK GHOSH

VS.

UNION OF INDIA & ORS.
(C.G.H.S.)

For the applicants : Mr. S. Abedin, counsel
Mr. D. Mukherjee, counsel

For the respondents : Mr. P. Pramanik, counsel

ORDER

The applicants have assailed the order dated 16.12.2014(Annexure A-19 to the O.A.) issued in pursuant to the direction of this Tribunal dated 12.12.2013 in O.A. 934 of 2012 (Ila Ghosh & Another vs. Union of India & Ors.). Therefore, it is the second journey of the applicants to this Tribunal.

2. In the speaking order, the respondents have stated that Sri Kaushik Ghosh, son of the deceased employee(Applicant No.2) was more than 25 years of age at the time of death of his father, Late Partha Sarathi Ghosh, therefore he was not dependent on the deceased Government servant as per DOP&T's guidelines dated 16.01.2013 as a result of which his case was rejected by the Committee.

3. The respondents have emphatically admitted that the Welfare Inspector, deputed to investigate the financial liabilities of the family of the deceased employee, submitted that loans were still outstanding against the

employee for which the banks would take legal steps for refund of the money.

4. It was argued by the Id. counsel for the applicants that the O.M. dated 16.01.2013 based upon claim of the applicants was rejected, nowhere restricts consideration of a son for employment assistance on compassionate ground above the age of 25 years, therefore, the rejection was arbitrary, illegal, without proper application of mind, perverse and bad in law. Ld. counsel further invited my attention to the scheme for compassionate appointment(Annexure A-20, page 224 of O.A.) as per which the depended family member would be the following:-

"Dependent Family Member" means:

- (a) spouse; or
- (b) son(including adopted son); or
- (c) daughter(including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or
- (e) member of the Armed Forces referred to in(A) or (B) of this para who was wholly dependent on the Government Servant/member of the Armed Forces at the time his death in harness or retirement on medical grounds, as the case may be."

5. The respondents in their reply have almost reiterated their contentions for rejection of the applicants' claim as put forth by way of speaking order.

6. Ld. counsel were heard and materials on record perused.

7. The respondents have failed to show that the applicant No.2, Sri Kaushik Ghosh was employed in any organization or had any independent source of income or in any way was not wholly dependent on the Government servant at the time of his death. Moreover, the widow of the

deceased employee is entitled to nominate her son in her place to act as bread-winner for the family as per para (a) quoted above.

8. It was noted that as per O.M. dated 31.05.2007 issued by the Government of India, Ministry of Health and Family Welfare, New Delhi, age limit for dependent children of Government servants and pensioners for availing medical facilities under CGHS and Central Services(MA) Rules, 1944, is 25 years or still he starts earning whichever is earlier. This O.M. has been annexed as Annexure R/1 to the reply to dispel the claim of the applicant who has crossed 25 years of age. However, this circular of the respondents should not stand in the way of a case where a son is seeking compassionate appointment to become the bread winner for the family. Moreover, the DOP&T has recently done away with its earlier restrictions in regard to married sons to act as bread-winner of the family.

9. Such being the position, I find no reasonableness in the action of the respondents in debarring the applicant No.2 to act as bread-winner for the family of the deceased employee on the ground that he has crossed 25 years of age. There is also no specific bar in the Compassionate Appointment Scheme for consideration of such case.

10. In view of the above, the impugned order dated 16.12.2014(Annexure A-19) is quashed. Matter is remanded back to the respondent authorities, who shall consider the prayer of the applicant strictly in accordance with the relevant rules, Compassionate Appointment Scheme, Report of the Welfare Inspector and financial condition of the family and pass a speaking order within a period of two months from the date of communication of this order.

The O.A. is accordingly disposed of. No costs.

(BIDISHA BANERJEE)