

## CENTRAL ADMINISTRATIVE TRIBUNAL

## CALCUTTA BENCH



No. MA 350/00431/2015  
OA 350/01524/2015

Date of order : 9.5.2016

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

SMT. PUSPA SENGUPTA & ANR.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.K. Chakraborty, counsel

For the respondents : Mr.B.P. Manna, counsel

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. The employee Jiban Sengupta ex Loco Pilot /APDJ took voluntary retirement on 31.10.98 due to medical de-categorisation. His son Pranab Sengupta was appointed on 23.6.2000 on compassionate ground. Unfortunately the said son died while in harness and as a bachelor on 4.11.04. His sister Sushmita Sengupta, the applicant No.2 in the present application got married on 8.3.05. The original employee i.e. father of applicant No.2 and husband of applicant No.1 passed away on 31.12.08. The widow has prayed for employment assistance in favour of her daughter Sushmita Sengupta who was unmarried as on the date of physical invalidation of the father, and date of death of the brother. Aggrieved with the rejection of the widow's prayer, vide order dated 13.12.05 (Annexure A/3,) this application has been filed seeking the following reliefs :

- a) To file and prosecute this application jointly under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987 since both of them have prayed for the same reliefs arising out of same cause of action;
- b) Do issue a mandate upon the respondents, their men and agents and each of them to forthwith consider the pending representations of the applicants being Annexure A/4 collectively

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and on such consideration offer an employment assistance to the applicant No.2 commensurate to her educational qualification in Group 'C' post on quashing the purported order/letter dated 13.12.2005 being Annexure A/3 herein;

- c) Do issue mandate upon the respondents their men and agents and each of them to forthwith certify and transmit all the papers and documents before this Learned Tribunal for kind perusal and on such kind perusal do conscionable justice to the applicants ;

3. A bare perusal of the impugned order would demonstrate that the respondents have failed to make up their mind whether to reject the application on the ground that the compassionate appointee Pranab Sengupta having passed away no other compassionate appointment could be granted to other family members of the employee Jiban Sengupta or whether it had to be on the ground that daughter of the employee Sushmita Sengupta was not dependent on her brother Pranab Sengupta.

The order impugned in the present OA quashing whereof has been prayed for, reads as under :

"To  
Smt. Puspa Sengupta  
M/o Late Pranab Sengupta  
Ex. Sr. PTR/SS/RVK  
PO Bholardabri, Alipurduar Junction  
DT - Jalpaiguri.

13.12.05

Sub : Compassionate ground appointment of Miss Susmita Sengupta in Gr. C category against the death of your son Late Pranab Sengupta, Ex PTR/RVK died as bachelor.

The compassionate ground appointment of Miss Susmita Sengupta against the death of your son Late Pranab Sengupta, ex PTR/RVK who died as bachelor is regretted by the competent authority on the following grounds :

1. Sri Pranab Sengupta was appointed on compassionate ground due to medical de-categorisation of your husband Sri Jiban Sengupta, Ex Loco Pilot/APDJ. On account of his voluntary retirement from service, full benefit towards the retirement benefits was paid.
2. Due to the premature death of your son Lt. Pranab Sengupta, Ex PTR/RVK, necessary benefits towards the death has also been paid to you as per rule which is also considerable a good amount.
3. The question of dependency of Miss Susmita Sengupta to the deceased is not established. Moreover, it would be worthy to inform you, that the unmarried daughter Miss Susmita Sengupta is wholly dependent to her parent.

For Divl. Railway Manager (P)  
Alipurduar Junction."

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4. It could be noticed that the applicants have preferred an appeal before the CPO on 24.12.05 followed by appeal to the General Manager on 30.7.07 and a reminder on 30.9.12.

5. It would also appear from a Disability Certificate issued by Superintendent and EO Chairman, Handicapped Board, S.D. Hospital, Alipurduar, Jalpaiguri under Govt. of West Bengal, that Susmita Das (Sengupta) is permanently disabled. The percentage of disability being 65% and cannot travel without assistance of an escort.

6. The impugned order does not also indicate that the prayer for compassionate appointment was rejected keeping in view the financial condition of the family, which ought to have been the sole guiding factor for consideration. The widow is alive and may be in requirement of compassion. Further provisions are there for consideration of "near relatives" for employment assistance on compassionate ground. Therefore there is no logic in denying appointment to the sister of the deceased to earn as bread winner for the widow of the original employee and widow mother (dependent) of the son.

7. The repeated prayers have failed to yield any response whatsoever.

8. In as much as, prayers have been repeatedly made before the General Manager after initial rejection by the DRM, the OA is disposed of with a direction upon the respondent No.1 or any other competent authority to consider the prayer of the widow and pass appropriate reasoned and speaking orders within three months from the date of receipt of the copy of this order.

9. The authorities while considering the prayer would bear in mind that rejection of a prayer for employment assistance on compassionate ground on the ground of marriage has been strongly deprecated by the Hon'ble Apex Court as well as Hon'ble High Courts of this country, in (i) ***Shreejith G -vs- Director of Education*** [(2012) 7 SCC 248], (ii) ***W.P. 6056/2010, The State of Maharashtra & Ors. -vs- Medha Prashant Parkhe*** by Hon'ble Bombay High Court, (iii) ***WP 11987/12 Sou. Swara Sachin Kulkkarni (Kumari Depa Ashok Kulkaarni) -vs- The Superintending Engineer, Pune, Irrigation Project Circle and Anr.,*** (iv) ***Usha Singh -vs- State of West Bengal*** [(2003) 2

LLN 554] and (v) in *Canara Bank & Anr. v. M. Mahesh Kumar* [AIR 2015 SC 2411], Hon'ble Apex Court referring to its earlier judgment in *State Bank of India vs. Jaspaul Kaur* (2007) 9 SCC 571<sup>was p</sup> held that the compassionate appointment had to be granted in terms of the scheme that was in vogue at the time of death of the employee and referring to *Balbir Kaur & Anr. vs. Steel Authority of India Ltd. & Ors.* [(2000) 6 SCC 493] deprecated the practice of taking into consideration the terminal benefits for the purpose of consideration for compassionate appointment.

10. Accordingly the OA stands disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)  
MEMBER (J)

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