

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA050/00960/2018

Date of order 03.12.2018

CORAM

HON'BLE MR. JAYESH V. BHAIRAVIA, MEMBER (J)

1. Sumati Devi, W/o Late permanand Prasad Gupta, Mohalla-Makhdoom Sarai, Kali Asthan Dih, District- Siwan.
2. Dayanand Prasad Gupta, S/o Late Permanand Prasad Gupta, Mohalla-Makhdoom Sarai, Kali Asthan Dih, District-Siwan.

..... Applicant.

By advocate: Sri J.K. Karn.

Verses

1. The Union of India through the D.G. Cum Secretary, Department of Posts, Dak Bhawan, New Delhi-10001 & 4 ors.

..... Respondents.

By advocate: Sri Bindhyachal Rai.

O R D E R (ORAL)

Per Mr JAYESH V. BHAIRAVIA /M (J):- In the instant OA, the learned counsel for the applicant has pleaded that the applicant no.1 is the widow of the deceased employee, late Permanand Prasad Gupta who was an employee of RMS U Division, Muzaffarpur, who died in harness on 10.07.1994, leaving behind 3 sons and 1 daughter who all were minor at the time of death of deceased employee. The applicant no.2 is the elder son of the deceased employee and applicant no.1. On majority of his son, applicant no.1 has applied for appointment on

compassionate ground of her son, i.e. applicant no.2. The claim of the applicant was considered by the competent authority and the same was rejected vide order dated 29.09.2006 on the ground that keeping in view of the available vacancy for compassionate appointment, the claim of the applicant comparatively not found suitable based on liabilities, family size, age of children, financial condition, terminal benefits, landed property and availability of own house etc. (Annexure-A/1). Subsequent to it, the applicant has submitted one representation/application before the concerned ministry of the department of respondents on 18.12.2007.(Annexure-A/2). Since then there is no other application/representation has been submitted by the applicant.

2 Learned counsel for the applicant further submits that the respondents have issued OM dated 16.01.2013, whereby the respondents has formulated the new scheme with regard to grant appointment on compassionate ground to the dependent family members of a government servant dying in harness or who is retired on medical ground, leaving his family in penury and without any means of livelihood and to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency. (Annexure-A/4).

3 Learned counsel for the applicant further submits that as per the said scheme, no time limit has been prescribed for submission of applicant for CGA. The applicants were not aware about the said fact and similarly situated other dependent families of other deceased employees had applied and availed the benefits of the said scheme. The applicant has also submitted a representation dated 23.01.2018, for extension of the said benefits and requested the concerned authority to consider the penury condition of the family as also the provision of the said scheme. (Annexure-A/6). The said representation of the applicant is pending before the authority for its consideration.

4 Learned counsel for the applicant further submits that the similarly situated dependents of the deceased employees were initially denied the benefit of the scheme. However, they had approached this Tribunal and on the direction of this Tribunal the cases of such persons were considered by the respondents and recommended for CGA. He placed reliance on the various orders passed by this Tribunal.

5 He further submits that the respondents have provided information under RTI about one such beneficiary of dependent family of other deceased employee whereby the old case has been considered by the respondents. (Annexure-A/8). Therefore, the applicant's case is also required to be considered. L/c for the applicant further submits

that he would be satisfied if directions be issued upon the respondents to consider his pending representation within time bound manner.

6 Learned counsel for the respondents submits that the case is barred by limitation and no application for condonation of delay has been filed. He further submits that the deceased employee died in 1994, and on attaining the age of majority, the case of the applicant no.2 was considered in the year 2006 by the respondents and thereafter, the said scheme was introduced in 2013 and on the basis of this scheme, the applicant has submitted his representation, which cannot be allowed. He further submits that the criteria for eligibility for CGA always need to be considered at the time of consideration of such claim. The provision stipulated under Claus-9 of the scheme, i.e. with regard to consideration of belated request for appointment on compassionate ground does not warrant any further consideration of the claim of the applicant. He also submitted that policy invoked at the time of first consideration of case of the applicant will apply and not the new scheme which was formulated in the year 2013.

7 Heard the parties and considered the submissions made by the counsel for the parties. It is noticed that the respondents have formulated the scheme for grant of CGA and published by way of OM dated 16.01.2013. As per the provision of Clause-9 of the said scheme,

belated request for compassionate ground required to be considered. It is pleaded by the applicant that similarly situated dependent of members of deceased employee had applied under the new scheme and under the provision of the said scheme more particularly, with regard to consideration of belated request, such claims had been considered by the respondents and recommended for CGA by the CRC. Such information was provided under RTI to the applicant.(Annexure-A./8). Therefore, it is the case of the applicant that his representation for the claim of CGA also equally be considered. Thus, it is appropriate to direct the respondents to consider the pending representation dated 23.01.2018 submitted by the applicant in the light of provision of the scheme within 60 days from the date of receipt of a copy of this order.

8 In view of the above directions, the OA is disposed of. No costs.

[Jayesh V. Bhairavia]M(J)

BP/