

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/204/2013

Cuttack this the 21st day of January, 2019

CROAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

1. Kikkara Narasamma, aged about 56 years, Widow of Late K.KrishnaMurty, permanent resident of JayaramChandrapuram, PO-KASIBUGGA, Palasamandalam, Dist-Srikakulam-532 222, Andhra Pradesh.
2. Bhaskar Rao Kikkari, aged about 29 years S/o. late K.KrishnaMurty, permanent resident of JayaramChandrapuram, PO-Kasibugga, Palasamandalam, Dist-Srikaklam-532 222, Andhra Pradesh.

...Applicants

By the Advocate(s)-M/s.N.R.Routray
S.K.Mohanty
T.K.Choudhury
Smt.J.Pradhan

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Chief Personnel Officer/East Coast Railway/E.Co.R.Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
3. Divisional Railway Manaager/East Coast Railway/Khurda Road Division/Jatni, Dist-Khurda.
4. Senior Divisional Personnel Officer, E.Co.Rly/Khurda Road Division, At/PO-Jatni, Dist-Khurda.

...Respondents

By the Advocate(s)-Mr.M.K.Das

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

The sum and substance of the facts is that applicant no.1's husband and father of applicant no. 2 while working as Bearer in the East Coast Railways passed away on 03.09.2000. In the above background, applicant no.1 submitted an application for compassionate appointment in favour of her elder son Shri K.Gogap.Rao. Her applicant was considered and the same was

regretted vide letter dated 20.01.2003 due to submission of false/forged certification by the said K.Gopal Rao. On 29.12.2011, applicant no.2 submitted a representation (A/4) to the Sr.Divisional Personnel Officer (Res.o.3) for grant of compassionate appointment in favour of her second son, viz., K.Narasamma. This representation having been considered was regretted vide letter dated 07.08.2012(A/7), inter alia on the ground that as per the instructions of CPO/BBS, once a fake certificate has been submitted for one candidate of the family and the same has been rejected, the case of second candidate with proper certificate will not be considered. Thereafter, applicant no.2 submitted an appeal dated 3.10.2012(A/8) to the General Manager and the same was rejected vide A/9 dated 03.12.2012 by stating that it is not a fit case for compassionate appointment. Aggrieved by this, widow of the deceased employee (applicant no.1) and his son (applicant no.2) have filed this O.A. praying for the following reliefs:

- i) To quash the order of rejection dtd.07.08.2012 & 03.12.2012 under Annexure-A/7 & A/9.
- ii) To direct the Respondents to provide employment in Railway on compassionate ground in favour of applicant no.2.

2. Opposing the prayer of the applicants, respondents have filed a detailed counter. They have, at the outset, submitted that the O.A. is barred by limitation and therefore, the same is not maintainable. In addition to this, they have reiterated their stand point as has formed the foundation of rejection of claim for compassionate appointment vide A/6, i.e., the submission of fake/forged certificate by the elder son while seeking compassionate appointment.

3. I have heard the learned counsels for both the sides and perused the records. I have also gone through the decision dated 17.07.2014 of the Hon'ble High Court of Jharkhand at Ranchi in W.P.(S) No.434 of 2014 (Azij Ansari vs. Union of India &Ors.) cited by the learned counsel for the respondents in support of his case. According to him, a similar matter having been set at rest by the Hon'ble High Court of Jharkhand at Ranchi in the above cited decision, this Tribunal should not interfere in the matter.

4. I have considered the rival submissions and perused the decision as cited by the learned counsel for the respondents. In the said case in order to obtain compassionate appointment, applicant therein had submitted a forged certificate and this having been detected, his request was rejected by the authorities concerned. Thereafter, he submitted a fresh certificate seeking compassionate appointment and the same was in view of Chief Personnel Officer, Eastern Railway's letter dated 27.03.2009 wherein it has been stipulated that while considering the appointment on compassionate appointment, if once a fake school certificate is submitted, no second chance will be given. This formed the subject matter of O.A.No. 85 of 2011 before the CAT, Patna Bench and vide order dated 28.03.2008, the CAT, Patna (Circuit Court at Ranchi) dismissed the said O.A. Aggrieved with this, the applicant moved the Hon'ble High Court of Jharkhand at Ranchi in W.P.(S) No.434 of 2014 and vide judgment dated 17.07.2014, the Hon'ble High Court of Jharkhand at Ranchi rejected the said Writ Petition in the following terms:

"8. In course of hearing, the petitioner has admitted that earlier School Certificate was false, which reflects that the petitioner has not come with clean hands and he was seeking job on the basis offered and false documents, which is indicative of his mala fide intention and also casts doubt on the integrity the petitioner. It is Iso relevant that by letter No.CPO/SC/SA/PO1/Pt, X (Corresp) dated 27.03.2009, it was the policy decision of the respondents that while

considering the appointment on compassionate grounds, if once a fake certificate is given, no second chance will be given. The applicant was informed accordingly by letter dated 0409.2008 and the Tribunal has considered this aspect. It is settled law that appointment on compassionate ground is not a matter of right rather it flows from the scheme formulated by the institutions as per terms and conditions. Admittedly there is specific instruction as noted in the letter CO[O/SC/SA/PO1/Pt, X (Corrsp) dated 27.03.2009 that if the certificate is found to be fake no second chance can be given and the relief as sought for by the petitioner cannot be granted.

9. Thus, there is no merit in this writ petitioner and the petitioner is not entitled to be appointed on compassionate ground. Hence, the same is, hereby rejected".

5. As noted above, the facts of the case are quite distinct from the decision as referred to above. In the instant case, the request for compassionate appointment in respect of the elder son having been rejected on the ground of submission of false/forged certificate, the second son has now applied for the post and in such eventuality, nothing stands in the way to consider the case of the applicant no.2 in the light of the instructions governing the field. Accordingly, I direct the respondents to consider the case of the applicant no.2 for compassionate appointment within the scope and meaning of the scheme set out in this regard and pass a reasoned and speaking order within a period of 120 days from the date of receipt of this order.

6. In the result, the O.A. is allowed as above. No costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

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