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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH.

Original Application No. 515 of 2016.
MA 850/403/2017

1. Smt. Manju Bhattachary~~ee~~,

Wife of Late Asutosh Bhattacharya, Ex-
Group -D employee under the Central
Inland Fisheries Research Institute,

2. Tapan Bhattachary~~ee~~

Late Asutosh Bhattachary~~ee~~

Both residing at SSGR III, Ghatak Para,
Post Office - Monirampore, Police Station:
Barrackpore, District: North 24 Parganas,
Kolkata - 700 120.

..... Applicants.

-Versus-

1. Union of India

Service through the Secretary, Department
of I. C. A. R., Ministry of Agriculture,
Government of India, Krishi Bhawan, New
Delhi, 110001.

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2. The Director General and Secretary,
Ministry of Agriculture and Research
Education, Government of India, Krishi
Mantranalaya, Krishi Bhawan, New Delhi
- 110 001.

3. The Director,
The Central Inland Fisheries Research
Institute, having its office at
Barrackpore, Kolkata - 700 012.

..... Respondents.

N.S.

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/515/2016
MA/350/403/2017

Date of Order: 22/11/18

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

Smt. ManjuBhattacharjee&Anr.Vs. Union of India (Agriculture)

For the Applicant(s): Mr.S.S.Roy, Counsel

For the Respondent(s): Mr.B.Kumar, Counsel

O R D E R

A.K Patnaik, Member (J):

Applicant No.1 is the widow and Applicant No.2 is the son of the deceased employee. It is the case of the Applicant that the deceased was a Group-D employee of Central Inland Fisheries Research Institute Barrackpore and died in harness on 12.5.2009. On 18.6.2009 applicant No.1 made an application for providing appointment on compassionate ground in favour of the applicant No.2 followed by reminders dated 28.7.2009 and 27.9.2013. There being no response to the said request, they had approached this Tribunal in OA No. 2048/2015 which was disposed of with a direction to the authorities concerned to look into the matter and ascertain the status of the elder sons and pass appropriate orders on the representation of the applicants within a period of two months. Thereafter, respondents considered the case of the applicants and vide letter dated 11.3.2016 intimated the reason of non-acceptance of the request for providing appointment to applicant No.2. Hence, this second round of litigation seeking the following reliefs:

“(A) Directing the Director of the Central Inland Fisheries Research Institute, Barrackpore not to effect or further effect the impugned order dated 11.3.2016 passed by the Administrative Officer Central Inland Fisheries Research Institute and set aside and cancel the same and further direct the Director to issue appointment letter to your applicant No.2 under death in harness category within a reasonable time;

(B) Directing the Respondent Authorities particularly the Respondent No.3 the Director of Central Inland Fisheries Research

(Signature)

Institute Barrackpore herein to produce or cause to produce the original record before this Tribunal;

(C) Costs.

(D) Any other or further order or orders to which the applicant may be found entitled by this Learned Tribunal."

2. Respondents have filed their counter objecting to the prayer on the ground that applicant No.1 has been receiving family pension and that compassionate appointment cannot be claimed as a matter of right after such a long period of time.

3. Applicants have also filed rejoinder more or less reiterating the stand taken in the OA.

4. Heard and Perused the records.

5. The impugned letter dated 11.3.2016 reads as under:

"The plea of Smt. ManjuBhattacharjee, widow of Late AshutoshBhattacharjee, Ex-SSS, ICAR-CIFRI, for compassionate appointment of her youngest son ShriTapanBhattacharjee is not accepted by the Competent Authority of ICAR-Central Inland Fisheries Research Institute,Barrackpore on following ground:

As per the direction of Hon'ble CAT, Calcutta Bench the status of two elder sons of Smt. ManjuBhattacharjee was sought through letter No. 1/2/Adm. II/7192 dated 22.02.2016. In reply, Smt. ManjuBhattacharjee, has claimed that she is 'fully dependable' on ShriTapanBhattacharjee. But, ShriTapanBhattachrjee has declared that his source of income is nil. Clearly, either Smt. ManjuBhattacharjee or ShriTapanBhatacharjee, if not both, is making false statement since one person cannot be wholly depended on someone who himself is without any income, as per his own declaration. Again, Smt. ManjuBhattacharjee is recipient of family pension. Therefore, her claim of dependency on ShriTapanBhattacharjee is baseless."

6. There is no whisper in the order of rejection that the delay and laches has defeated the claim of the applicants and for the first time such a ground has been taken in the reply by the respondents to justify the order of rejection, which in

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my opinion, is not permissible under law. Similarly, receipt of family pension cannot be a ground to deny the appointment on compassionate ground. It is the specific case of the applicants that the deceased was a group D employee who died in harness and the family pension which the applicant No.1 is getting is not sufficient to meet the financial hardship of the dependent family. In view of the above, the impugned order dated 11.3.2016 is quashed and the matter is remitted back to the Respondents to reconsider the case of applicant No.2 taking into consideration the size and financial status of the family and intimate the result thereof to the applicants within a period of sixty days from the date of receipt of a copy of this order.

7. In the result this OA stands allowed to the extent stated above. No costs.



(A.K.PATNAIK)
Member (Judicial)

RK/PS