

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

NIZAM PALACE, CALCUTTA

Original Application No. 1565 of 2016

Krishna Hazra,

son of Late Kishore Hazra, residing

at Village-Haridasmati Ayodhanagar

Post Office and Police Station-

Berhampore, District-Murshidabad,

PIN-742101

..Applicant

-Versus-

1. The Union of India, service through the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi-1.

2. The Commissioner, Central Excise, Kolkata-II, West Bengal, having office at M.S. Building, 15/1, Strand Road, Kolkata-700001.

3. The Additional Commissioner,
Central Excise, Kolkata-II, West
Bengal, having office at M.S.
Building, 15/1, Strand Road,
Kolkata-700001.

4. The Assistant Commissioner,
Central Excise, Murshidabad having
office at 26/23 Sahid Surya Sen Road,
Post Office and Police Station-
Berhampore, District-Murshidabad,
PIN-742101.


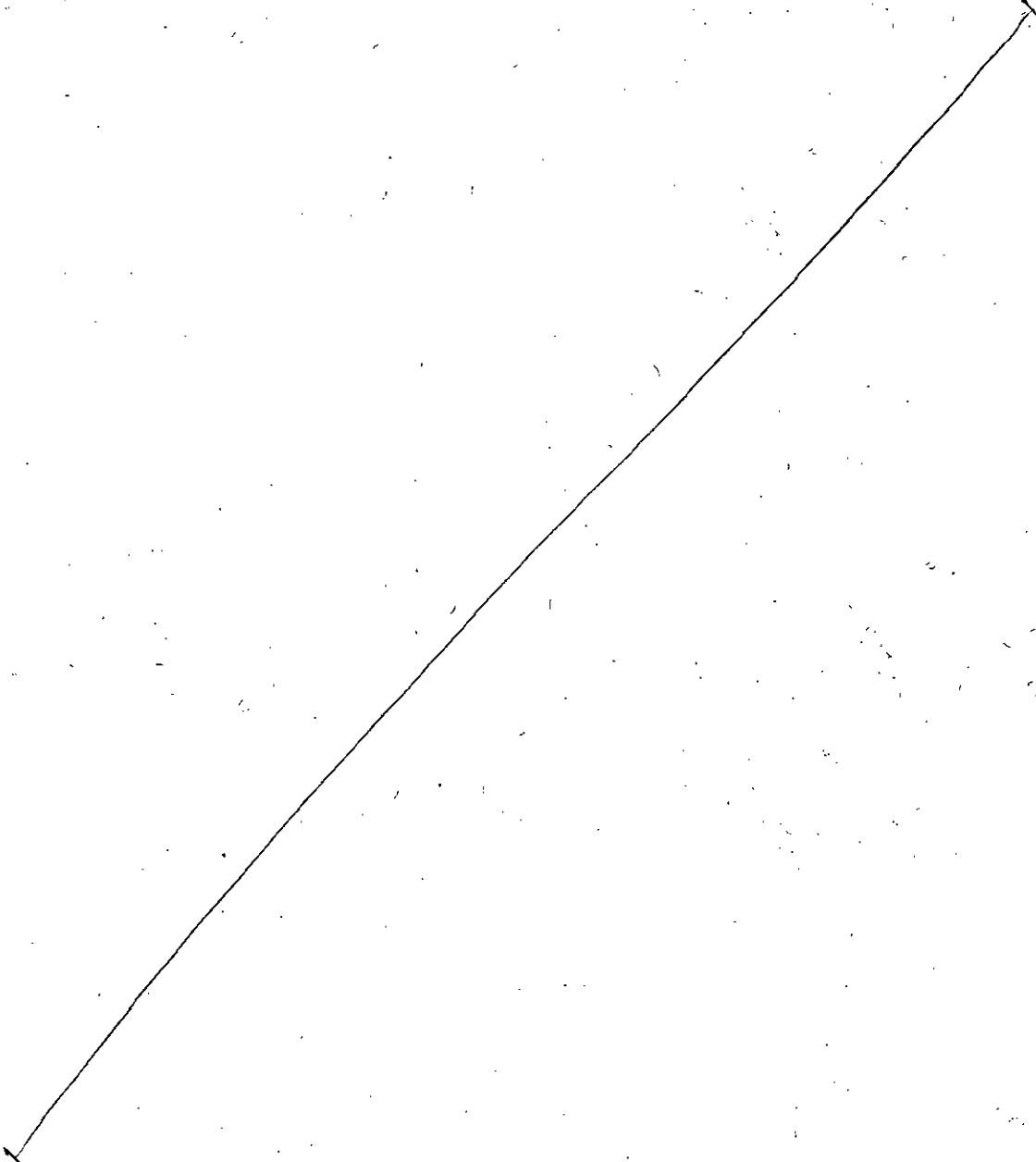
5. The Joint Commissioner (P&V)
Central Excise and Customs, Bolpur
having office at Post Office and
Police Station-Bolpur, District-
Birbhum, PIN-731204.

.....Respondents

6. Smt. Mongala Hazra, wife of
Late Kishore Hazra, residing at

Village-Haridasmati Ayodhanagar,
Post Office and Police Station-
Berhampore, District-Murshidabad,
PIN-742101.

...Proforma Respondent



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1565/2016

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

KRISHNA HAZRA

VS.

UNION OF INDIA & ORS.
(Central Excise & Customs)

For the applicant : Mr.S. Datta, counsel

For the respondents : Mr. P. Mukherjee, counsel

Heard on : 25.02.2019

Order On : 29.03.2019

ORDER

The ld. counsels were heard.

2. This application has been filed to seek the following reliefs:

"a) An order be passed setting aside the impugned decision of the respondent no.3 as was communicated vide letter being C.No.II(31)2-ET/Kol-II/2016/4567A dated 23rd May, 2016 being Annexure 'A-9' of the instant application;

b) An order be passed directing the respondent no.2 to consider the application of the applicant for appoint on compassionate ground taking into consideration of the written statement/application of the applicant's mother dated 5th August, 2016;

c) An order be passed directing the respondent Central Excise authorities to issue appointment letter in favour of the applicant for appointment under died-in-harness category in a suitable post;

d) Any other order/orders, direction/directions be passed as This Hon'ble Tribunal may deem fit and proper."

3. The order impugned in the O.A. reads as under:-

"To

Smt. Mongala Hazra, W/o-Late Kishore Hazra, Ex-Head Havalder, C.Ex., Bolpur Comm'te.'

Address:-

VIII - Haridasmati, PO-Behrampore, Dist - Murshidabad, PIN-742101

Subject : Appointment under Compassionate Ground- Corres/Reg.

The case of Smt. Mongala Hazra, Date of Birth-0101.1967[W/o-Late Kishore Hazra, (Date of Death-03.02.2010), Ex Head Havalder, C. Ex., Bolpur Comm'te] has been thoroughly

examined in the Departmental Screening Committee(DSC) meeting held on 07.01.2016, 08.01.2016& 09.01.2016, for appointment under compassionate ground for the post of Group-"C"(Havaldar), under the combined cadre control of the Principal Chief Commissioner, Central Excise, Kolkata Zone. Her application was duly considered by the Committee with reference to facts on records and in the light of various judicial pronouncements & directions/guidelines issued by the Competent Authority in this regard. The DSC took note of the basic guideline of the Scheme as enshrined in Office Memorandum under F.No.14014/02/2012-Estt.(D) dated 16.01.2013 of DoP&T which are;

- a) "The family is indigent and deserves immediate assistance for relief from financial destitution;and
- b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules."

The Screening Committee took note of the principles set out by the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana & others. The Committee also perused the observation of Hon'ble Supreme Court in its judgment dated 05.04.2001 in Civil Appeal No.2206 of 2006 filed by Local Administration 'Department vs. M Selvanayagam. The Committee also lent reliance on the order of Hon'ble CAT, Calcutta bench in O.A.No.1004/2011 dated 21.09.2012 in the case of Chaman Bibi, Vs. U.O.I. & Ors. which rejected the plea of the applicant namely Chaman Bibi on the ground which reads as under:-

"Facts of the present case are that more than a decade has already expired. The object of the scheme is to provide immediate financial assistance."

The Committee has also extensively gone through the provisions of the directions of the Competent Authority including the OMs of DoP&T as under;

(i) Consolidated instructions on Compassionate appointment of DoP&T's letter under F.No.14014/02/2012-Estt.(D) dated 16.01.2013; (ii) DoP&T's letter under F.No.14014/3/2011-Estt.(D) dated 26/07/2012, (iii) DoP&T's letter under F.No. 14014/02/2012-Estt.(D) dated 07.10.2014; (iv) FAQs of DoP&T's letter under F.No. 14014/02/2012-Estt.(D) dated 30.05.2013 and (v) FAQs of DoP&T's letter under F.No. 14014/02/2012-Estt.(D) dated 25.02.2015.

Keeping in mind the above instructions and judicial pronouncements, the Departmental Screening Committee(DSC) after careful consideration has recommended that "the applicant is found to be educationally ineligible as per the provisions of the Recruitment Rules of Havaldar, notified on 30.03.2015."

This issues with the approval of the Competent Authority.

(M.A. Ansari)
Additional Commissioner"

4. Ld. counsel for the applicant, while drawing attention to the aforesaid speaking order would vociferously contend that at no point of time Mongala Hazra ever sought for consideration of her case, yet the respondents rejected her case on untenable grounds and failed to discharge their duty cast upon by this Tribunal in earlier rounds, to consider her son Krishna Hazra for the purpose.

5. Having noted that in the first round this Tribunal directed consideration of Krishna Hazra, which non consideration led to the second round of litigation, I am

of the considered opinion that the respondents have misdirected themselves in considering Mongala (which was never prayed for) instead of Krishna Hazra.

6. Hence, the speaking order is quashed and the respondents are directed to strictly act in terms of earlier orders in O.A.No.348/2011 and O.A.No.919/2015 and issue appropriate order within three months from the date of receipt of this order.

7. Accordingly the O.A. stands disposed of. No costs.


(Bidisha Banerjee)
Judicial Member

sb

