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o.a. 1037 of 2017

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**

LIBRARY

O.A. 1037 of 2017

Coram : **Hon'ble Ms. Bidisha Banerjee, Judicial Member**

1. Sumana Deb,
Daughter of late Durghes Chandra Deb,
Aged about 35 years,
Residing at 74/1/10, Unit - II,
South Eastern Railway Colony,
Garden Reach,
Kolkata - 700 043.

2. Biva Rani Deb,
Wife of late Durges Chandra Deb,
Residing at 74/1/10, Unit - II,
South Eastern Railway Colony,
Garden Reach,
Kolkata - 700 043.

..... Applicants.

Versus

1. Union of India,
Service through the General Manager,
South Eastern Railway,
Garden Reach,
Kolkata - 700 043.

2. The Chief Personnel Officer,
South Eastern Railway,
11, Garden Reach Road,
Kolkata - 700 043.

3. The Divisional Railway Manager (P),
South Eastern Railway,
Kharagpur Division,
Kharagpur,
Paschim Medinipur - 721 301.

4. The Sr. Divisional Personnel Officer,
South Eastern Railway,
Kharagpur Division,
Kharagpur,
Paschim Medinipur - 721 301.

..... Respondents.

For the applicant : Mr. A.K. Chakraborty, Counsel
Ms. P. Mondal, Counsel

For the respondents : Mr. B.P. Manha, Counsel

Reserved on : 09.01.2019

Date of Order : 15.3.19

ORDER

Ld. Counsels were heard and materials on record were perused.

2. The applicant, a widow, seeking employment assistance on compassionate ground, has sought for the following reliefs:

- "8.i) Office order No. SER/P HQ/122/REC/Sumana Deb/102 dated 21.03.2017 issued by the Chief Personnel Officer, South Eastern Railway is not tenable in the eye of law and as such the same may be quashed.*
- ii) An Order do issue directing the respondents to grant an appointment on compassionate ground in favour of applicant No.1 at an early date;*
- iii) Costs of and incidental to this application;*
- iv) Pass such further or other order or orders;*
- v) Leave may be granted to file this original application jointly under Rule 4(5)(a) of the CAT Procedure Rule 1987."*

3. The admitted facts in the pleadings, are as under:

"While working as Helper-I under SSE (Works) /North/GRC, mother of applicant was sent for medical board which declared her medically invalidated in all categories. Accordingly she was terminated on medical ground w.e.f. 04.7.11. Thereafter, Smt. Biva Rani Deb, the Ex-employee and applicant No.2 herein prayed for employment assistance on compassionate ground by submitting application dtd. 15.11.11 (Annexure A2 to the OA), duly enclosing the necessary documents i.e. Madhyamik Passed certificate (Annexure A-3 to the OA) etc. As per rule in vogue, one SWI was nominated to enquire into the case. The certificate so submitted, was sent to the secretary, West Bengal Board of Secondary Education for verification of result and date of birth. In reply, Dy. Secretary (Records verification) vide letter dtd. 28.3.2012 informed that Sumana Deb was unsuccessful in Madhyamik Pariksha in the year 1999. Thus the mark-sheet and the certificate issued on behalf of the WBBSE have been automatically proved as fake and the regret letter dtd. 24.7.12 was issued (Annexure A-4 to the OA).

Further, applicant No.2 submitted a representation dtd. 13.12.16 addressed to CPO/GRC for grant of Compassionate Assistance on Compassionate Ground. The case was again examined at HQ level but the competent authority regretted vide letter dtd. 21.3.17 (Annexure A/7 to the OA) on the ground that submission of forged and fake document before the Government is a crime and is punishable under various Sections of Indian Penal Code."

4. The order, impugned in the present O.A., reads thus:

SOUTH EASTERN RAILWAY

Office of the
Chief Personnel Officer
11, Garden Reach Road,
Kolkata - 43

No. SER/P-HQ/122/REG/Sumana Deb/102 Dated: 21.03.2017

To:
Smt. Biva Rani Deb
Ex. Helper under SSE/Work/North/GRC
Qtr. No. 53/E/1/4, Unit-3,
S.E. Railway South Colony,
Garden Reach,
Kolkata - 700 043

Sub : Prayer for employment assistance in favour of your daughter Kum. Sumana Deb in Gr. C or D category on compassionate grounds

Ref : Your representation dated: 13.12.16 on the subject addressed to CPO/S.E. Rly/GRC

In reference to your letter cited above on the subject it is to inform you that on being declared medically unfit for all categories of services in Indian Railways you were given an opportunity for employment assistance in favour of your daughter Kum. Sumana Deb on the basis of her educational qualification as Madyamik Pass Certificate from West Bengal Board of Secondary Education in the year 1999 as per Certificate submitted. But on verification it revealed that Kum. Sumana Deb was un-successful in the Madhyamik Examination in the year 1999. It proves that your daughter has made an attempt to secure Government job by adopting fraudulent means.

Since 'Verification Report' towards educational qualification your daughter Kum. Sumana Deb proved to be fake one, the Competent Authority did not agree to consider her appointment on this Railway on compassionate grounds. However, on receipt of your appeal under reference the case was again put up to the Competent Authority who also has regretted the same since submission of forged and fake document before the Government Official is a crime under various Sections of IPC and is punishable under the Act.

(D.N. Diggi)
 Chairman
 Railway Recruitment Cell
 For Chief Personnel Officer

5. The Certificate dt. 29.12.99 of WBBSE and the Marksheet reveal that Sumana Deb secure third division as an "external candidate".

The verification report supra does not indicate whether the applicant was an "external candidate".

6. Further, the document relied upon, on the basis of which the claim in rejected, is a circular of CPO, S.E. Rly dt. 19.4.2010 which does not appear to have sanction of the Railway Board, the highest law making body in the Railways, authorised to lay down circulars, or at least the G.M. of the particular divisional Railway.

7. Furthermore, the records reveal (Annexure A-3) that the applicant has secured admission to Higher Secondary course under West Bengal Council of Higher Secondary Education, vide requisition certificate dt. 1.7.2000 which cannot be given unless one succeeded in Madhyamik.

Further she has enrolled herself under National Institute of open Schooling.

8. In view of the above inconsistencies, the order impugned is quashed and the matter is remanded back to the authorities to undertake the following exercise:

- (i) to sent the Certificate dt. 29.12.99 & Marksheet, as annexed to the reply, for verification of their genuineness from West Bengal Board of

Secondary Education, within 4 weeks from the date of receipt of a copy of this order.

(ii) Based upon the revelation /report of the Board to reconsider the matter within 1 month thereafter with appropriate reasoned & speaking order.

O.A. accordingly stands disposed of. No costs.

drh

