

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

T.A.No.260/29/2015

Date of Reserve:19.07.2019

Date of Order:09.09.2019

CORAM:

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

1. Bhubaneswari Panigrahi, aged about 57 years, W/o. Late Hara Kumar Panigrahi, At/Pr. Residing at Qr.No.A/43 CISF Colony, PO-Rourkela-11, PS.Plant Sigt Rourkela, Dist-Sundargarh.
2. Rudrapada Panigrahi, aged about 30 years, S/o. Late Hara Kumar Panigrahi, residing at Qr.No.A/43 CISF Colony, PO-Rourkela-11, PS. Plant Sight Rourkela, Dist-Sundargarh.

...Applicants

By the Advocate(s)-M/s.T.Rath
K.C.Barik

-VERSUS-

1. Managing Director, Steel Authority of India Ltd., At-Rourkela Steel Plant, PO-Rourkela-11, Dist-Sundargarh, PIN-769 011.
2. A.G.M.Fire Services, Steel Authority of India Ltd., At-Rourkela Steel Plant, PO-Rourkela-11, Dist-Sundargarh, PIN-769 011.
3. D.G.M.)P&A), Steel Authority of India, At-Rourkela Steel Plant, PO-Rourkela-11, Dist-Sundararh, PIN-769 011.

...Opposite Parties

By the Advocate(s)-Mr.S.Pattnaik

ORDER

PER SWARUP KUMAR MISHRA, MEMBER(A):

In this Transferred Application, the applicants have prayed for the following:

"...to admit the Writ Application, issue Rule Nisi asking the Opp.PARTIES to show cause as to why the writ application shall not be allowed and in the event if the Opp.PARTIES show no cause and show insufficient cause this Hon'ble Court may kindly be pleased to direct the Opp.PARTIES to extend the benefit of Rehabilitation Assistance Scheme in favour of the petitioner No.2 and appoint him in any post befitting to his qualification".

2. Facts of the matter in brief are that husband of the Applicant No.1 and father of Applicant No.2 being a High Skilled Category Driver had been appointed as such by the Central Industrial Security Force (in short CISF) Unit of Rourkela Steel Plant, Rourkela. While he was under the employment of CISF, he was transferred to Fire Service of Rourkela Steel Plant on deputation for a period of two years vide order dated 23.6.1981 of the DIG, CISF and Chief of the Security. However, he was absorbed permanently in the Fire Service Department of Rourkela Steel Plant vide order dated 20.1.1986. While working as such, he passed away on 15.01.1991. In the above background, applicant No.1 submitted an application dated 31.1.1991(A/6) to provide compassionate appointment in favour of her son, applicant no.2. Since it did not yield any result, applicant No.1 submitted another representation on 6.9.1993 (A/7) to Respondent No.1. The applicants submitted two more representations on 14.11.2005 and 7.2.2006 (A/8 & A/9) and thereafter, approached the Hon'ble High Court of Orissa in W.P.(C) No.27230/2006. Vide order dated 25.6.2015 of the Hon'ble High Court, the matter was transferred to this Tribunal and renumbered as T.A.No.29 of 2015.

3. It is the case of the applicants that in some of the cases where death had occurred prior to 1991 or immediately thereafter, the Opposite Parties have considered the request of their family members and have be extended the benefit of Rehabilitation Assistance Scheme, but in their case, there has been a complete departure which amounts to discrimination. Besides, it has been

pledged that the family is indigent and therefore, the Opposite Parties should be directed to provide employment assistance in favour of the applicant no.2.

4. Opposing the prayer of the applicants, Respondents have filed their counter. The main thrust of the counter-reply is that the father of the applicant No.2 having passed away in the year 1991, a substantial period has elapsed in the meantime and therefore, there is no compelling circumstances still exist so as to provide compassionate appointment. According to the respondents, the very purpose of such compassionate employment is to meet the immediate financial problems of the employee's family on account of death of the employee. Relying on the decision of the Hon'ble Supreme Court in Haryana State Elec. Board vs. NareshTanswar & Anr. (1996-I LLJ-1966, it has been pointed out that the present claim after a lapse of about 15 years cannot be made alive and as such the claim of the applicants merits no consideration. Respondents have submitted that a Scheme called Employees Family benefit Scheme" for rehabilitation of dependent family of the deceased employee is in force since 1989 based on which the dependents are entitled to monthly payment of the last pay drawn by the deceased till the notional date of superannuation. Respondents have pointed out that the averments made by the applicants that they had submitted representations vide A/6 & A/7 are fictitious since those are not available on record. As regards the representations vide A/8 & A/9, it has been submitted that those being devoid of merit called for no action.

5. Heard the learned counsels for both the sides and perused the records including the orders dated 19.02.2016 of this Tribunal passed in T.A.No.49 of 2010 as relied on by the learned counsel for the applicant.

6. Admittedly, in the instant case, the husband of applicant No.1 passed away on 15.1.1991. The representations dated 31.1.1991(A/6) and dated 6.9.1993(A/7) are stated to be not available on records and in this connection, the respondents have pointed out that those have been fabricated in order to overcome the delay. Applicants have also not produced any evidence in support of their claim that any such representations had ever been submitted by them. Secondly, as regards the representations dated 14.11.2005 (A/8) and dated 7.2.2006(A/9), the respondents have submitted that those do not merit consideration in view of delay and laches of about 15 years.

7. Perusal of order dated 19.02.2016 of this Tribunal in T.A.No.49 of 2010 makes it clear that the employee therein passed in the year 2004 and in this connection, wife of the deceased employee had submitted a representation for compassionate appointment in favour of her son in the year 2004 followed by reminders in the year 2007. Since their grievance was not redressed, they had approached the Hon'ble High Court of Orissa in W.P.(C) No.816 of 2009 and on the direction issued by the Hon'ble Court, the representation preferred by the applicants therein had been considered and was rejected vide order dated 19.08.2009. Aggrieved with this, the applicants therein had again approached

the Hon'ble High Court of Orissa in W.P.(C) No.651 of 2010, which had been transferred to this Tribunal and renumbered as T.A.No.49 of 2010. Viewed from this angle, the factual matrix of the present case is not the similar as in T.A.No.49 of 2010 and therefore, the decision thereon as relied on by the applicants is of no help to them.

8. Coming to the merit of the matter, it is pertinent to note that the whole object of providing compassionate appointment is to meet the immediate succour to the deceased family to tide over the sudden jerk on account of the death of the sole breadwinner. Admittedly, in the instant case, compassionate appointment has been claimed after a period of more than one decade. In view of settled position of law, as enunciated by the Hon'ble Supreme Court, it would be again all canon of law to direct the respondents to consider the case of applicant No.2 for compassionate appointment at this belated stage, as the purpose for which compassionate appointment is provided, by the efflux of time, has been rendered infructuous.

9. For the reasons discussed above, T.A. is dismissed, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

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