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CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA BENCH

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No. M.A.No.350/00255/2016
O.A.No.350/01586/2015

Date of order : 22.9.2016

Present : Hon'ble Mrs. Urmita Datta (Sen), Judicial Member

1. Smt. Maya Mallick, wife of Late Swapan Mallick, Ex-Peon, Govt. of India, Stationery Office, residing at 39/3, Ramkrishna Pally, Bhadreswar, Dist. Hooghly, Pin no.712124.
2. Sri Somnath Mallick, son of Late Swapan Mallick, Unemployed Youth, residing at 39/3, Ramkrishna Pally, Bhadreswar, Dist. Hooghly, Pin no.712124.

.....Applicants
Vs.

1. Union of India, through the Secretary, Ministry of Urban Development, Govt. Of India, Stationery Office, New Delhi – 110 001
2. The Controller of Stationery, Govt. of India, Stationery Office, 3, Church Lane, Kolkata – 700 001
3. The Asstt. Controller of Stationery, Administration, Govt. of India, 3, Church Lane, Kolkata-700 001

.....Respondents

For the applicants : Mr. N. Roy, counsel

For the respondents : Mr. B.P. Manna, counsel

ORDER

The applicants have filed this application under Section 19 of Administrative Tribunals Act, 1985 seeking the following reliefs:-

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"a) To issue direction upon the respondent to give compassionate appointment to the applicant No.2 forthwith;

b) To issue further direction upon the respondent to give appointment to the applicant No.2 forthwith;

c) To quash, cancel and/or set aside the order dtd 01-06-2012 passed by the Asstt. Controller of Stationery, Administration forthwith;

d) Any other order or orders as the learned Tribunal deem fit and proper;

e) To produce connected departmental record at the time of hearing;

f) Leave may be granted to file this joint application under Rule 4(5)(a) of the CAT Procedure Rule, 1987."

2. As per applicant No.1, her husband, who was working as Peon under the respondents, died on 10.06.2001. Thereafter, the applicant No.1 submitted application for compassionate appointment in favour of applicant No.2 on 05.07.2001. Vide letter dated 23.07.2001(Annexure A-3), the applicant No.1 received a blank prescribed proforma for application for compassionate appointment asking her to return the same after filling it up duly and submit all the relevant educational documents. According to the applicants, the said proforma was duly submitted to the authorities concerned. However, the respondents rejected the claim of the applicants vide letter dated 01.06.2012(Annexure A-8) stating as under:-

"Undersigned is directed to refer to your application dated 06-01-2002 forwarded by the Ministry of Urban Development, New Delhi on the subject and to say that the case was placed before the Compassionate Appointment Committee meeting held on 11.04.2012 under the Chairmanship of Controller of Stationery. The said committee has re-examined the appeal and expressed their views that the family has survived since 2001 and it is assumed that the family has been able to maintain their livelihood on their own. The Committee has therefore not considered the case as deserving for appointment on Compassionate Ground."

Being aggrieved with such order of rejection, the applicants have approached this Tribunal seeking the aforesaid reliefs.

Ms.

3. The respondents have raised preliminary objection regarding the point of limitation. As per the respondents, the rejection order was passed in 2012 and the application has been filed in 2015 only. According to the respondents, as there was a ban on direct recruitment of 5% quota as per the order of Expenditure Reforms Commission, Ministry of Finance, Government of India, the recruitment process was stopped during the relevant period. However, on the basis of the Parliamentary Committee Report, the respondents took initiatives to fill up the vacancies for the years 2011, 2012, 2013 but again the Ministry imposed ban on direct recruitment in the year 2013. However, in the meantime, the Compassionate Appointment Committee held a meeting on 11.04.2012 however the case of the applicant was not found fit for compassionate appointment, therefore, their claim for compassionate appointment was rejected by the respondents on 01.06.2012(Annexure A-8) stating that "the family has been able to maintain their livelihood on their own. The Committee has therefore not considered the case as deserving for appointment on Compassionate Ground."

4. The applicants have filed rejoinder in which they submitted that till now they are suffering from financial constraints, therefore, the applicant No.2 should be given compassionate appointment.

5. The applicants have also filed an M.A.No.255 of 2016 for condonation of delay in filing the O.A. in which it has been stated that they made repeated representations to the authorities praying for compassionate appointment and as the widow was suffering from economic problems, she could not file the O.A.

Ms.

6. I have heard the ld. counsel for both sides and perused the materials placed on record.

7. It is noted that the husband of applicant No.1 died on 10.06.2001. Though the applicant No.1 made representation for compassionate appointment in favour of applicant No.2 in the year 2001, the same was considered in the year 2012 due to the ban on 5% direct recruitment by the Ministry and the claim of the applicants was rejected on 01.06.2012(Annexure A-8) on the grounds mentioned supra. However, the applicants have approached this Tribunal by filing this O.A. in 2015 i.e. three years after the order of rejection was passed and about 14 years after the death of the employee. In the application for condonation of delay, the applicants have only stated that due to their penurious economic condition they could not come to this Tribunal within time. In the M.A. the applicants have annexed some medical documents and one prescription of eyesight which are not convincing.

8. In the aforesaid circumstances, I am not convinced with the grounds taken by the applicants in the M.A. for condonation of delay. However, there is no overwhelming merit in the original application to condone the delay.

9. Accordingly both the M.A. and O.A. are dismissed. No order as to cost.

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(URMITA DATTA SEN)
Judicial Member

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