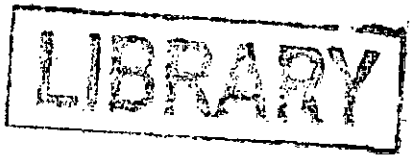


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 771 of 2019
M.A. 424 of 2019

Date of order: 10.7.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Mongri Kumari @ Mala Mallick,
Daughter of Late Sahadeo Mallick @
Sahadeb Mallick,
Residing at 221, Deshpran Sasmal Road,
Tollygunge,
Kolkata - 700 033.

.. Applicant

- VERSUS -

1. The Union of India,
Service through the Secretary,
Ministry of Defence
Sena Bhawan,
Defence Head Quarter,
Army Headquarter,
New Delhi - 110 105.
2. The Adm. Commandant,
Class - I, 246, AJC Bose Road,
Alipore,
Kolkata - 700 027.
3. The Board of Officer, J
Service through the Dy. Director,
GS/SD-7 (Adm. Civs) General Staff
Branch Army Headquarter DHQPO,
New Delhi - 110 011.
4. The Station Cell,
Head Quarter, Service through the
Sub-Bengal Area Alipore,
246, AJC Bose Road,
Kolkata - 700 027.
5. The Officer-in-Charge,
Legal Cell,
Sub-Bengal Area,
246, AJC Bose Road,

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Kolkata - 700 027.

.. Respondents

For the Applicant : Mr. Z. Alam, Counsel

For the Respondents : None

ORDER (Oral)**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985, praying for the following relief:-

(a) A direction may be given upon the respondents, their officers, men and agents and each of them to provide a job to the applicant on compassionate ground instead and place of her deceased father immediately by quashing the impugned order of rejection being No. 92942/SD-7(Adm. Civs.) dated 30.9.2005 passed by the Jr. Director, GS/SD-7(Adm. Civs.)

(b) A direction may be given upon the respondents, their officers, men and agents, and each of them to show cause as to why they should not be directed to provide a job to the applicant in died in harness category instead and place of her father by quashing the impugned order of rejection No. 92842/SD-7(Adm. Civs.) dated 30.9.2005 passed by the Jr. Director, GS/SD-7(Adm. Civs.).

(c) A direction may be given to the respondents to produce the records and proceedings in connection with this case before this Tribunal so that the conscionable justice may be done to the applicant by quashing the impugned order dated 30.9.2005

(d) A direction may be given by this Tribunal not to give any effect or further effect to the impugned order being No. 92842/SD-7 (Adm.Civs) dated 30.9.2005.

(e) To pass such other or further order or orders as to the Tribunal may deem fit and proper."

2. Heard Ld. Counsel for the applicant, affidavit of service is taken on record. Matter is taken up at the admission stage

3. An M.A. bearing No. 424 of 2019 in connection with O.A. bearing No. 771 of 2019 has been filed praying for condonation of delay.

Accordingly, the dates of events are as follows:-

The ex-employee had expired on 24.11.1999 and the applicant, preferred a representation in September, 2000 followed by that dated April, 2002 praying for compassionate appointment on account of demise of her father, the ex-employee. Thereafter, not having received any reply

to the representations, the applicant had approached the Hon'ble High Court, Kolkata in Writ Petition No. 11277 of 2002 and the said Writ Petition was disposed of on 17.9.2002 with a direction to the respondent authorities to decide on the issue within a period of 8 weeks from the date of communication of the order. The respondent authorities, thereafter, rejected her claim vide order dated 30.9.2005, challenging which, the applicant once again approached the Hon'ble High Court in W.P. No. 24826 (W) of 2005. The Hon'ble High Court disposed of the said matter by directing the applicant to approach the Court of appropriate jurisdiction, namely, the Central Administrative Tribunal. The applicant, however, not being aware of the procedure, approached the Armed Forces Tribunal as her father belonged to the Defence Establishment and as the Armed Forces Tribunal was not the Court of jurisdiction, the applicant has presently approached this Tribunal.

It is noted that there is a significant delay in filing this O.A. In 2011, the Hon'ble High Court had directed the applicant to approach the Central Administrative Tribunal. The applicant has explained the delay in filing the O.A. on account of her stressed financial conditions, her helplessness on account of the demise of her father and her lack of legal knowledge in approaching the Court of appropriate jurisdiction. Given the practical difficulties of the applicant, however, the delay is condoned as a very special case and M.A. No. 424 of 2019 is disposed of accordingly.

4. Coming to the merits of the matter, the applicant's prayer for compassionate appointment has been rejected by the respondent authorities on the ground that there were no vacancies in 5% quota for compassionate appointment and DoP&T had not agreed to allowing compassionate appointments in dying cadres.

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The applicant, through her Ld. Counsel, has preferred another representation on 7.8.2018 to the respondent authorities stating that as she is left alone, having been separated from her mother, and has no other means of survival, she is in dire need of appointment on compassionate ground. The applicant, however, has nowhere challenged respondents' communication dated 30th September, 2005 (Annexure A-5 to the O.A.).

Hence the applicant is allowed to withdraw this original application and is granted liberty to agitate afresh upon challenging the rejection order of the authorities, if so advised.

5. The O.A. is disposed of with the above observations. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP

