

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No.O.A.1261 of 2013

Date of order: 27.7.16.

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

1. SMT. SOMA MAITY
2. SMT. SUJATA MAITY

VS.

UNION OF INDIA & ORS.
(S.E. RAILWAY)

For the applicants : Mr. A. Chakraborty, counsel

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

ORDER

Heard Id. counsel for the parties and perused the records.

2. In this O.A. a speaking order dated 04.09.2013 (Annexure A-11 to the O.A.) is under challenge on the ground that the claim for employment assistance to Soma Maity, daughter of Late A.K. Maity has been turned down as the name of the daughter of the deceased employee was mentioned as 'Kakuli Maity' with date of birth 01.08.1986 in the documents submitted to the respondents by Smt. Sujata Maity, the widow of the deceased employee. The relevant portion of the impugned order is reproduced below:-

"As per Rly. records, the name of daughter is Soma Maity and all facilities of pass, medical etc. were taken by the ex-employee in the name of Soma Maity, whereas in "Identification Certificate with Photo" issued by Sr. DMO, S.E. Rly, Mathurakati, on 03.12.98 as a document of family composition of late A.K. Maity as submitted by Sujata Maity for compassionate appointment to her son Sri Goutam Maity, the name of daughter of Late A.K. Maity, is recorded as "Kakuli Maity", date of birth 01.08.86.

In the school certificate of Madhyamik' 2011 issued by the West Bengal Council of Rabindra Open Schooling, the name of the candidate is Soma Maity. In the ration card issued on 31.05.2011, the name is Soma Maity. Whereas in one voter card (Duplicate) issued on 27.02.2012, the name of Kakoli Maity and in another voter card issued on 18.06.2012, the name is Soma Maity.

Appointment in Govt. service requires subjective satisfaction of appointing authority after due verification of character and antecedents of a candidate whether fit and suitable for in Govt. Service.

Further, Supreme Court in the case of Umesh Kumar Nagpal vs-State of Haryana contained in S. E. Rly.'s Srl.No.72/95, clearly held that the appointment on compassionate ground is not a vested right, which can not be claimed and offered whatever the lapse of time and after the crisis is over.

It is observed that compassion was once shown to the family to get rid of immediate financial crisis due to untimely death of the ex-employee.

Considering on the above and after passage of time of 15 years, I have come to the conclusion that there is no further compassion warrants and as such you are not entitled to appointment on compassionate ground and thus the case is treated as closed."

3. The records demonstrate that the employee expired on 07.01.1998 and on the date of death of the employee his daughter, namely Kakoli Maity was 12 years old and his son Gautam Maity was 17 years old. The widow's prayer for compassionate appointment in favour of her son, Gautam Maity was rejected on 16.11.1999 on the ground that fake school certificate was submitted to the authorities. The widow even represented for compassionate appointment in her favour on 18.12.2003 and admitted that her daughter is Kakoli Maity aged 17 years. But on 29.08.2012 one Soma Maity claiming to be the daughter of the deceased employee sought for consideration of her case for compassionate appointment which was rejected on 18.10.2012, whereafter she approached this Tribunal in O.A.No.389 of 2013. The Tribunal decided the O.A.389 of 2013 on 16.05.2013, relevant portion of which reads as under:-

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"3. As we find that the applicant No.2, Smt. Sujata Maity, the widow of deceased employee had in fact approached wrong forum, we direct the authorities to consider the prayer dated 29.08.12 in accordance with law untrammelled by the observations made by the Senior Divisional Security Commissioner/RPF that the case is time barred and is not acceptable. Necessary orders be passed upon the said representation within three months from the date of communication of this order. The O.A. is accordingly disposed of. No costs."

4. It also appears from the impugned speaking order that as per Railway records, name of the daughter is 'Soma Maity' [Annexure A-11, page 26 of the O.A.]. Therefore, the reason for rejecting the prayer for compassionate appointment that in some of the documents the name of the daughter of the deceased employee are mentioned as 'Kakoli Maity' whereas other documents reflect her name as 'Soma Maity', is not proper as it appears that even the employee himself got his daughter's name recorded as 'Soma Maity' as well as 'Kakoli Maity'. Further, in view of the earlier order passed by this Tribunal on 16.05.2013 in O.A.389 of 2013 directing the authorities to consider the prayer dated 29.08.2012 in accordance with law, rejection of the prayer for compassionate appointment on the ground that after passage of time of 15 years, no further compassion is warranted, is not justified. Accordingly the impugned speaking order dated 04.09.2013(Annexure A-11 to the O.A.) is quashed. The matter is remanded back to the Respondent No.2, the Divisional Railway Manager(P), South Eastern Railway, Kharagpur, who shall pass appropriate orders within two months from the date of communication of this order, untrammelled by the earlier rejection.

5. Accordingly the O.A. is disposed of. No costs.

(BIDISHA BANERJEE)
Judicial Member