

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
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MA. 304/2013
(OA. 730/2013)

Date of Order: 16.6.16

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

Kumari M. Gouribai, D/o. late M. Appanna,
Ex-Mate under the S.E. Rly. , aged about
35 years, residing at C/o. T.L. Raju, Rly. Qtr.
No. L/3, Unit-16, Porterhcoli, Kharagpur, P.O.
Kharagpur, Dist- Paschim Medinipore.

.....Applicant.

-versus-

1. Union of India through the General Manager,
S.E. Rly., Garden Reach, Kolkata – 700 043.
2. Sr. Divisional Personnel Officer, S.E. Rly., Kharagpur, P.O. Kharagpur, Dist- Paschim Medinipur, 721301.

.....Respondents.

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. BP Manna, Counsel

ORDER

Per Ms. Bidisha Banerjee, JM:-

This matter is taken up in Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Heard learned counsel for the parties.
3. The applicant the daughter of second wife of deceased employee has sought for employment assistance on compassionate ground in this OA, as also quashing of the order dated 12.06.2008.
4. The respondents in their reply have admitted that "Kumari M. Gouribai filed the instant Original Application before the Hon'ble CAT/CAL seeking compassionate appointment of her deceased father, late M. Appanna who was working as a Mate at Kharagpur, S.E. Rly".

5. The respondents have further stated that "the applicant's case was rejected as she failed to submit her claim within 2 years from the date of attaining majority i.e., 18 years of age. Kumari M. Gouribai was born from the 2nd wife of the ex-employee. It has been decided by the Railway Administration circulated through E/Srl. No. 20/92 that the employment assistance on compassionate ground cannot be considered to the candidate born to 2nd wife of the ex-employee unless the administration has permitted the second marriage in special circumstances, taking into account the personal law etc".

6. Learned counsel for applicant had relied upon a decision rendered by this Tribunal in O.A. 1117 of 2008, **Kajali Karmakar vs. Union of India & Ors.** rendered on 17.09.2009 wherein this Tribunal took the following view:

.....Now the legal question is even assuming not admitting that the marriage with the second wife is void, can the children born out of such marriage deprived of the right to compassionate appointment on the ground of illegitimacy. Even adopted son or other blood relation can claim compassionate appointment and it is unfortunate that the daughter of the second marriage of a deceased Railway employee is denied the benefit. It is profitable to quote the following decisions:

- (i) *Rameshwari Devi -vs- State of Bihar & Ors. [(2002) 2 SCC 431]*
- (ii) *Vidyadari & Ors. -vs- Sukhrana Bai & Ors. [2008(1) Supreme 460]*
- (iii) *Smt. Usha Singh-vs- State of West Bengal [2003(1)CLJ 407]*
- (iv) *Pradip Kr. Saha -vs- State of West Bengal & Ors. [1982 Lab IC 1968]*

These throw light on the subject that such deprivation is against the Constitution provisions. It is also an admitted fact that entire retirement benefits are disbursed as per the Court's order to the second wife and the(not legible) so they are beneficiaries of the estate of the deceased employee which proves beyond doubt the legitimacy of the applicant.

.....Coming to the letter in which much reliance has been given by the respondents dated 20.1.92 (Annexure R/1), I am of the view that it has become obsolete and bad in law in view of the decision of the Hon'ble Supreme Court. Therefore, I have no hesitation in setting aside and quashing the said letter of the Railway Board which can be no longer in force. I therefore set aside and quash the said letter.

9. *In the conspectus of facts and circumstances mentioned above I hereby direct the respondents to consider the name of the applicant in the next Relaxation Committee available and if she is otherwise fit as per the norms prescribed by the compassionate appointment scheme, her claim may be considered and appropriate orders may be passed. The entire exercise shall be done within a period of six months from the date of receipt of the copy of this order."*

7. It is also an admitted fact that the Hon'ble High Court at Calcutta in the case of **Smt. Namita Goldar & Anr. vs. State of West Bengal & Ors. reported in 2010(1) CLJ (Cal) 464**, quashed the RBE circular 1/92 which has been relied upon by the respondents in the present case to deny compassionate appointment to the applicant.

8. In view of above legal position the respondents are directed to re-consider the case of the applicant in the light of the decisions cited supra and pass an appropriate order, within a period of 3 months. No costs.

(Bidisha Banerjee)
Member (J)

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