

LIBRARY**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA**M.A. 350/00367/2014;
O.A. 350/01437/2014

Order dated: 08.02.2016

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

ANJU RANI BISWAS & ANR.

VS.

UNION OF INDIA & ORS. (Tele. Communication)

For the Applicant : Mr. N. Roy, Counsel

For the Respondents : Mr. B.K. Chatterjee, Counsel

ORDER

This matter is taken up in the 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. The M.A. has been filed seeking condonation of delay in filing the O.A. challenging an order of 25.5.2005. In view of the facts pleaded and on being satisfied in regards to reasons shown for the delay and the order impugned being non-speaking order, the M.A. is allowed.

3. The instant O.A. has been filed seeking employment assistance on compassionate ground and quashing of the order dated 25.5.2005 whereby & whereunder such prayer has been rejected in the following manner:

"Kindly refer to your application dated 24.10.03 seeking employment on compassionate ground for your self/ on relaxation of normal recruitment rules. Your prayer was put up in the D.H.P.C meeting held in the month of March, 2005 for consideration. It is informed that your case was not recommended by the committee for compassionate appointment.

The inconvenience caused to you is regretted."

4. It would be noticed from a bare perusal of the order impugned that the rejection was by a non-speaking order.

5. The respondents have opposed of the O.A. on the ground of delay.

6. The Lt. Counsel for the applicant would argue that till this date the family is virtually seeking under pensions circumstances and if one of the dependants is not ^{out of} allowed to be ~~the~~ ^{the} a livelihood, the family would perish.

7. I have given my anxious consideration to the facts pleaded, arguments advanced materials put on record.

8. A recent decision of the Hon'ble Apex Court in **Canara Bank & Anr. vs. M. Mahesh Kumar, AIR 2015 SCC and 2411** would manifest how considerations in compassionate appointment cases are to be done. The Hon'ble Court in the matter has observed and held as follows:

"16. In *Balbir Kaur & Anr. v. Steel Authority of India Ltd. & Ors.*, (2000) 6 SCC 493 : (AIR 2000 SC 1596), while dealing with the application made by the widow for employment on compassionate ground applicable to the Steel Authority of India, contention raised was that since she is entitled to get the benefit under Family Benefit Scheme assuring monthly payment to the family of the deceased employee, the request for compassionate appointment cannot be acceded to.

xxx xxx xxx

Referring to Steel Authority of India Ltd.'s case, High Court has rightly held that the grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment assistance. The High Court also observed that it is not the case of the bank that the respondents' family is having any other income to negate their claim for appointment on compassionate ground.

17. Considering the scope of the Scheme 'Dying in Harness Scheme 1993' then in force and the facts and circumstances of the case, the High Court rightly directed the appellant-bank to reconsider the claim of the respondent for compassionate appointment in accordance with law and as per the Scheme (1993) then in existence. We do not find any reason warranting interference.

xxx xxx xxx

19. In the result, all the appeals preferred by the appellant-bank are dismissed and the appellant bank is directed to consider the case of the respondents for compassionate appointment as per the Scheme which was in vogue at the time of death of the concerned employee. In the facts and circumstances of the case, we make no order as to costs."

9. Furthermore it is obvious and axiomatic that a decision of Hon'ble Apex Court is binding all Courts & Tribunals & there is no quarrel about it. Judgments of Apex Court are declaratory for the nation [(1980) 1 SCC 233] and in a judicial system governed by precedents the Judgments delivered by the Hon'ble Apex Court must be respected and relied upon with meticulous care and sincerity.

10. In view of the latest decision of the Hon'ble Apex Court supra that terminal benefits ought not to be taken into account while considering the compassionate appointment cases, and also in view of the fact that the order impugned in a non-speaking on, I would pass the following order:

The respondents shall consider the matter afresh, untrammelled by their previous consideration, in the light of the decision supra, and pass a reasoned and speaking order within three months.

11. No costs.

B
(Bidisha Banerjee)
Member, (J)

drh