

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/00200/2014

Date of order : 15.2.2016

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

PREETAM NASKAR

VS

UNION OF INDIA & ORS.

For the applicant. : Ms.T.Das, counsel

For the respondents: Ms.D.Nag, counsel

O R D E R (ORAL)

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. Heard both the ld. Counsels.

3. The applicant has filed this application seeking the following reliefs :

- a) an order thereby setting aside and/or quashing and/or cancelling the impugned order dated 29.10.14 passed by the respondent authority in dismissing and/or rejecting the claim of the petitioner for grant of compassionate appointment;
- b) an order thereby directing the respondent authority to grant appointment in favour of the applicant to a suitable post in the respondent department on compassionate ground;
- c) an order directing the respondents to transmit all relevant records pertaining to this case before the Hon'ble Tribunal so that conscionable justice may be done and after perusing the same to quash the same.

4. From the reply filed by the respondents the following admitted position emerged :

The employee Ganesh Chandra Naskar died while in harness on 22.4.04. He was survived by his widow and a son Preetam Naskar, the applicant No. 1 herein. Since the widow preferred an incomplete application on 7.5.04 it was returned with the request to submit a form complete in all respects. She duly filled in proforma application and submitted the same on 17.1.05. Since no vacancy arose against 5% prescribed quota during 2006-08 applying the DOPT

OM dated 5.5.03 the case was closed. Later on with the issuance of the DOPT OM dated 16.1.13 the respondents entertained the application of the widow for further consideration. It was placed before the compassionate appointment committee which met on 28.3.14 and 1.5.14 for consideration against two available vacancies under the quota.

5. Applying the parameters of the scheme that prevailed at the material time, a list of candidates was published wherein the applicant having secured 77 points i.e. stood 3rd in terms of merit after Smt. Uma Das and Md. Razak Ali Mondal.

6. In the case of Rina Halder and Sandip Haldar, who figured way down in terms of merit, the Hon'ble High Court at Calcutta in WPCT 138/13, directed the department to take immediate appropriate steps for providing employment to the petitioner No.2 (Sandip Halder) in terms of its order within a period of two months from the date of communication of the order positively. The writ petition thus stood allowed.

In view of the said decision the respondents granted appointment to Sandip Haldar while the candidate who stood second i.e. Md. Razak Ali Mondal along with the present applicant who stood 3rd languished. Therefore admittedly less a less deserving person was given appointment by the respondents ignoring the claim of more deserving candidates. Suppressing the fact that the said candidate was a less deserving than two more candidates, the respondents practically allowed the said Sandip Haldar to be appointed, whereas for the ends of justice, they ought to have appointed the two more deserving candidates also.

7. The respondents in their reply have disclosed a letter dated 1.4.15 issued by the Joint Director, P&A for Dy. Director General & HOD, GSI wherefrom it would appear that the applicant would be considered against a vacancy likely to occur during 2015-16 under the quota and the applicant would seem to have applied for such consideration on 12.5.15.

8. Ld. Counsel for the respondents would submit that the meeting of appointment committee would take place shortly and the applicant would be considered in the said meeting.

9. Therefore in view of the observations made hereinabove the OA is disposed of with a direction upon the respondents to consider the claim of the applicant in terms of letter dated 1.4.15 as contained in Annexure R/13 of the reply and pass appropriate reasoned and speaking order within three months from the date of communication of this order.

The respondents while issuing speaking order shall bear in mind that on the last occasion the applicant who was more deserving than the candidate granted appointment was made to languish, while a less deserving candidate was allowed to steal a march over and above him in view of the decision of the Hon'ble High Court. Therefore the respondents would consider the case of the applicant with sympathy, diligence and due care.

10. The OA is accordingly disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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