

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA

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O.A. 763 of 2014

Order dated: 19.02.2016

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

DHIRAJ NARJINARY

VS.

UNION OF INDIA & ORS. (E P F O)

For the Applicant : Mr. K. Bagchi, Counsel
Mr. S. Chowdhury, Counsel

For the Respondents : Mr. K. Sarkar, 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. Aggrieved by rejection of his prayer seeking employment assistance on compassionate ground this Application has been filed seeking the following relief:

"8.(a) A Mandatory Order directing the respondent authorities, their men, agents, subordinates and each one of them to se aside, quash, cancel, rescind and/ or revoke the letter dated 12th December, 2013 bearing Memo No. ADM/RO/JPG/Part-II/306/1082 issued by Sri S. Ghosh, Assistant Provident Fund Commissioner (ADM), Respondent No.3 herein being Annexure "A-18" to this instant application and not to give any effect or further effect to the same and give effect to the Enforcement Officer's Report dated 3rd December 2009 forthwith being Annexure "A-16" to this Original Application.

(b) A direction upon the respondent authorities, their men, agents, subordinates and each one of them to forthwith take steps to appoint Sri Dhiraj Narjinary, applicant herein as a permanent employee in the Employees Provident Fund Organisation under the Ministry of Labour & Employment, Government of India by granting compassionate appointment under died-in-harness category instead and place of his deceased father in any post commensurate to his qualification and to pay him salaries month by month for the services rendered by him.

(c) To pass such other further Order or Orders as Your Lordships may deem fit and proper."

3. The order dated 12.12.2013, impugned in the present O.A., is extracted verbatim hereinbelow for clarity:

"Ref.No. ADM/RO/JPG/Part-I/306/1082

Date: 12/12/2013

To,
Shri Dhiraj Narjinary,
S/o Late Dorendra Narjinary,
Purba Satali, P.O. Purba Satali,
Distt: Jalpaiguri.

Sub: Appointment on Compassionate Ground.

Sir,

Your attention is drawn to the order of Hon'ble CAT Calcutta Bench dt 09.07.2013 in O.A. No. 1063 of 2011 directing the department to consider the case of the applicant (in this case Sri Dhiraj Narjinary) for grant of Compassionate appointment and if he is found fit for such appointment, he may be given Compassionate Appointment.

Following such direction, the matter was referred to Employee's Provident Fund Organisation, Head Office, New Delhi who are the Competent Authority for deciding for Compassionate appointment. The EPFO, Head Office placed the case before the Screening Committee on Compassionate Appointment on 19.11.2013 as per direction of Hon'ble CAT, Calcutta Bench. The Screening Committee observed that "the family is not in penury and financial destitution". The said committee also observed that Department of Personnel & Training has clarified vide DoP&T's No. 14014/02/2012 – Estt. (D) dated 30th May, that "a married son is not considered dependent on a government servant". Accordingly, the Screening Committee has not recommended the case for appointment on Compassionate ground.

The EPFO, HO, being the competent authority for consideration & grant of Compassionate Appointment has thus disposed off the case without recommending appointment on Compassionate ground.

Issued with the approval of RPFC-I

(Authority: Employees' P.F. Organisation, Head Office, letter No. HRM/IV/II/(2) 2009/JPG/16327 Dt. 09.12.2013).

Yours faithfully,

(S. Ghosh)
Assistant P.F. Commissioner (ADM)"

4. The impugned order would clearly manifest that the rejection was on the following grounds:

- (i) "the family is not in penury and financial destitution"
- (ii) "a married son is not considered dependent on a government servant"

5. In regard to ground (i) it could be noted that the Enforcement Officer, Regional Office, Jalpaiguri, on 13.12.2009 had opined as follows, "it is a fit case for compassionate appointment". The report was given adequately taking into consideration the income of the family, size of the family and that "(c) Normal expenditure in maintenance of family with reference to the size of family---Rs. 7000/- (aorox) per month".

Therefore rejection on ground (i) supra was without any basis.

6. In regard to ground no(ii) supra, it could be noted that on 19.1.2015 the Dept. of post has clarified as follows:

"To
All Chief Postmasters General.

Dated: 14 Jan 2015

Subject: Consideration of Married son as dependent family member for the purpose of compassionate engagement to GDS posts

Attention of all concerned is invited to clarification issued on Point of Doubt No.2 in Para 3 of this Directorate's letter No.17-17/2010-GDS dated 09th Oct 2013 vide which it was clarified that "a married son is not considered dependent on a GDS" for the purposes of compassionate engagement.

2. Considering the recommendations made by DKS Chauhan Committee, which was constituted to look into the various aspects related to Gramin Dak Sevaks, it has now been decided by the Department that a married son shall also be considered as one of the dependents of the Sevak for the purpose of compassionate engagement where the married son resides with his grandparents/parents along with his wife and children and is dependent on the parents for livelihood and other needs provided he possesses the required educational qualification including computer knowledge.

3. The competent authority to approve compassionate engagement cases shall also be competent to allow age relaxation wherever found necessary.

4. This provision will be applicable from the date of issue of this letter.

(Surender Kumar)
Assistant Director General (GDS)"

The circular would exemplify that as of now there is no such bar in regard to consideration of married son for the purpose of employed ^{ment}

7. Therefore rejection on the ground of married son has to be reviewed in the light of the OM dt. 14.1.2015 supra.

8. In the aforesaid backdrop the O.A. is disposed of with a direction upon the concerned respondent to place the matter before Screening Committee for consideration afresh, untrammelled by the earlier considerations, in the light of observations made hereinabove and to pass appropriate order within 1 month of meeting of the Screening Committee to be held next. No costs.

(Bidisha Banerjee)
Member, (J)

drh