

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. MA 350/00301/2015
OA 350/01054/2015

Date of order : 18.2.2016

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

SMT. MANGALA MAHANTY & ANR.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.B.C.Deb, counsel

For the respondents : Mr.M.K.Bandyopadhyay, counsel

O R D E R

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 ld. Counsels were heard and materials on record were perused.

2. The facts in a nutshell would be that Biroo Mahanty, the deceased employee was the husband of the present applicant. He was appointed as Gangman under S.E./P.Way/BP. He expired on 18.9.98 while in service. His son, applicant No.2 in the present OA applied for employment assistance on compassionate ground on 5.3.05 but the same was rejected by Divisional Personnel Officer vide order dated 10.6.09. Hence the present application has been filed.

3. In this OA the applicant would therefore seek for the following reliefs :

- a) Leave may be granted to the applicants to file this application jointly u/s 4(5)(a) of the CAT (Procedure) Rules, 1987;
- b) Direction upon the respondents to cancel and/or set aside and/or quash the impugned rejection letter dated 10.6.09;
- c) Direction upon the respondents to consider applicant No.2 for appointment on compassionate ground.

4. The respondents in their reply have submitted that the application of Mongola Mahanty, wife of the deceased employee for compassionate appointment in favour of her son, Dhruba Mahanty was processed on the basis

of application in prescribed format along with the school leaving certificate as a proof of educational qualification as well as date of birth. But upon verification, the school leaving certificate was found to be not genuine. As without proof of educational qualification and date of birth of the candidate, the case of compassionate appointment could not be considered, the case of the applicant No.2 was regretted and the same was communicated to the applicant No.1 on 6.1.02.

Further that Rabindra Kr. Mahanty the applicant No.2, submitted another application for employment assistance on compassionate ground. But as per instruction of the Railways dated 27.3.09, once a fake certificate was submitted, no second chance could be given to the applicants. Therefore the appeal was regretted and the same was communicated to the applicants vide order dated 10.6.09.

5. On the issue the following decision of the Hon'ble High Court at Calcutta in **WPCT 249/13 (Smt. Sushila Bauri & Anr. -vs- UOI & Ors.)** was noticed. In a matter of production of fake certificate by one dependent and consideration of the case of another dependent the Hon'ble Court had ruled as follows :

"The respondent authorities herein sought to punish the other members of the deceased family including the petitioner No.2 by refusing to grant employment on compassionate ground to the said petitioner No.2 upon considering the conduct of the elder brother of the petitioner No.2 herein. This is a misplaced punishment on an unerring person for the wrong committed by somebody else in which he had no role to play."

For the aforementioned reasons, we do not approve the decision of the Senior Divisional Personnel Officer, South Eastern Railway dated 13th June, 2012 and quash the same accordingly.

For the identical reasons, the impugned order passed by the learned Tribunal also cannot be affirmed and the same is set aside.

The respondent authorities, particularly the respondent No. 4 and 5 herein, are directed to take immediate appropriate decision with regard to the claim for re-employment of the petitioner No.2 herein on compassionate ground without any further delay but positively within a period of three weeks from the date of communication of this order without being influenced by the earlier decision of the Senior Divisional Personnel, Officer, South Eastern Railway in respect of the elder brother of the petitioner No.2."

The respondents, in the case at hand, have rejected the claim of one son on the ground of alleged ingenuity in the certificate of the other son and thereby sought to punish him. In view of the judgment supra there would be no

bar to consider applicant No.2 for employment assistance on compassionate ground to act as the breadwinner for the family.

6. Therefore, in the aforesaid backdrop and in the interest of justice I would direct the respondent authorities to consider the case of the applicant No.2 in the light of the judgment supra.

7. The respondents would pass appropriate reasoned and speaking order within three months from the date of communication of this order.

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

(BIDISHA BANERJEE)
MEMBER (J)

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