

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/01994/2015

Date of order : 21.1.2016

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

SHIB CHARAN PASWAN

VS

UNION OF INDIA & ORS.

For the applicant : Mr.B.Chatterjee, counsel
Mr.J.Dutta, counsel

For the respondents : None

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.

2. Heard Id. Counsels appearing for the applicant. Despite service no one appears for the respondents. Therefore Rule 16 of CAT (Procedure) Rules, 1987 is invoked. Affidavit of service is taken on record.

3. It is noticed that the case of the applicant seeking employment assistance was rejected by an order dated 29.10.15 which reads as under :

"In compliance of the Hon'ble CAT/Kolkata order dated 15.9.15 in OA No.350/01422 of 2014, your representation dated 26.5.14 is considered carefully and it is stated that CGA in your favour is not admissible as per extent rules vide RLY. BOARDS L/No.E(NG) II/91/RC-1/36 dt. 2.1.1992 wherein it is mentioned that compassionate ground appointment to the 2nd wife & her children are not to be considered unless the administration has permitted the 2nd marriage.

Under the above circumstance the claim for CGA in your favour is not admissible."

4. It is further noticed that the said circular has been quashed by the Hon'ble High Court at Calcutta in the case of **Smt. Namita Goldar & Anr. - vs. UOI & Ors. [2010 (1) CLJ (Cal) 464]**. The relevant extract would be as hereunder :

prevents the children of the second wife from being considered for appointments on compassionate ground.

For the reasons discussed hereinabove, we direct the respondents railway authorities to allow the claim of the petitioner NO.2 for appointment on compassionate ground and issue appropriate order of appointment in favour of the said petitioner No.2 without any further delay but positively within a period of two months from the date of communication of this order."

5. In view of the fact that the applicants claim has been rejected applying a circular that is legally not in existence, the speaking order dated 29.10.15 is quashed.
6. The matter is therefore remanded back to the authorities for consideration afresh untrammelled by the earlier consideration and without applying Railway Board's circular dated 2.1.92, within a period of two months from the date of communication of this order.
7. In case nothing stands in the way the benefits be ^{extended} ~~released~~ to the applicant within one month thereafter.
8. The OA is accordingly disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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