

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. OA 350/00139/2015

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. K.N.Srivastava, Administrative Member

SWAPNA BHOWMICK & ANR.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.B.M.Goswami, counsel

For the respondents : Mr.A.K.Banerjee, counsel

Order on : 30.5.16

O R D E R

Ms.Bidisha Banerjee, J.M.

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

2. The facts in a nutshell would be that the employee Pradip Bhowmick, was found medically unfit for further retention on 2.3.11 (Annexure A/1). His wife Swapna Bhowmick (the applicant) sought for employment assistance in her favour. The authorities having verified her educational certificates found differing date of birth in the documents. Her case was regretted. She then prayed for employment assistance in favour of her daughter (applicant No.2 herein). Her prayer was turned down as once a fake certificate was detected no second chance could be given.

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

- a) To file and prosecute this application jointly u/s 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987 since all the applicants prayed for the same relief arising out of same cause of action.
- b) An order be issued directing the respondents to grant an appointment on compassionate ground in favour of the applicant No.2.
- c) An order be issued directing the respondents to consider the representation of your applicant No.2 for appointment on compassionate ground.

4. It could be noted that the West Bengal Board of Secondary Education informed the Divisional Railway Manager, Eastern Railway, Sealdah on 9.2.12 (Annexure R/1) in regard to the date of birth of the applicant No.1, as follows :

“Sir,

The undersigned is directed to inform you that as per application form of 1st enrolment of Swapna Biswas, D/O Shanti Bhusan Biswas bearing Roll Kanch F No. 112 for the Madhyamik Pariksha (SE) 1986, her date of birth has been recorded in this office as 8.3.1964.”

Further on 14.9.12 the Headmistress, Jatia Girls High School, where she studied, informed the Sr. Divisional Personnel Officer, Eastern Railway that the date of birth of the applicant as per the school records was 8.3.64. The communication is extracted verbatim hereinbelow for clarity :

“To
The Senior Divisional Personal Officer,
Eastern Railway,
Sealdah.

Sub : Verification of date of birth of Smt. Swapna Biswas, daughter of Shanti Biswas

Ref : Your letter No. E/Se/R-7023 dt. 3.8.12

Sir,

With due respect I beg to inform you that Smt. Swapna Biswas, daughter of Shanti Biswas was a bonafide student of Jatia Girls' High School from the session 1978-79. Her date of birth according to the Admission Register of the School, as a Madhyamik candidate of Regular basis (1986) and as a compartmental candidate (1987) is 8.3.1964 (Eighth March Nineteen Hundred and Sixty four). According, to our result book she passed the Madhyamik Examination, but no certificate regarding her passing the examination has been received by school as per record, though in case of other candidates the certificate were received by school.

With thanks,

Yours faithfully,

*(Dr. Banani Mondal Chatterjee)
Headmistress
Jatia Girls' High School”*

5. Both the certificates demonstrated that the date of birth of the applicant No.1 was 8.3.1964. As no communications were received from the authorities the applicant sought for consideration in favour of her daughter Alivia.

On the basis of the abovementioned two letters/certificates, on 12.3.13 the Sr. Divisional Personnel Officer, Sealdah informed the applicant, in regard

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to her applications dated 9.5.11 and 17.7.12 seeking employment assistance on compassionate ground in favour of her daughter, infra :

"Reference above, it is to inform you that date of birth in CGA application as well as Admit Card of M.P.Exam is differed with the verification of examination result of M.P. from Board of Secondary Education, W.B.

Hence, compassionate appointment in favour of you has not been considered by the Competent Authority and regretted.

Further, appeal to CGA for your daughter has also been regretted since once a false certificate is detected, no second chance will be given as per extent rules."

6. During the course of hearing ld. Counsel for the applicant would vociferously submit that the Admit Card issued by West Bengal Board of Secondary Education as annexed as Annexure A/5 to the OA would exemplify and demonstrate that the date of birth of the applicant was 8.3.1972 and therefore the authorities would not doubt the date of birth of the applicant No.1.
7. Dispelling the claim ld. Counsel for the respondents would argue that the Admit Card ought to have given the figures "eight" as "eighth" as "eight day of March 1972" would make no sense and therefore ld. Counsel would argue that the Admit Card as contained in Annexure A/5 to the OA was not a genuine one. He would further submit that on 27.3.09 it was adequately circulated by Eastern Railway that once a document was found fake no second chance would be given in the case of compassionate appointment and therefore ld. Counsel would argue that the impugned order i.e. the communication dated 12.3.13 was absolutely in order.
8. In view of the revelations supra coupled with the certificate issued by the West Bengal Board of Secondary Education on 9.12.12 certifying that as per application form of first enrolment of Swapna Biswas her date of birth recorded in the office was 8.3.64, we could not take a contrary view to hold that the rejection was improper since.
9. We would also notice that Swapna Bhowmick had already cleared her Graduation from University of Calcutta in 1992 and Annexure A/7 would

further demonstrate that the School Authorities subsequently recognised, vide a certificate dated 5.6.12, that she had passed Madhyamik Pariksha (compartmental) in the year 1987 in 'P' Division and her date of birth as per record was 8.3.1972 and further that she had appeared in Madhyamik Pariksha in 1986 with Roll No. Kanch F No. 112 while appearing at the Compartmental Examination. Therefore it may not be a case of submission of "fake" certificate. The authorities ought to have verified the genuineness of the Admit Card at Annexure A/5.

10. That apart we would notice that the Hon'ble High Court at Calcutta in **WPCT 249/13 (Smt. Sushila Bauri & Anr. -vs- UOI & Ors.)** in a matter of production of fake certificate by one dependent 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 the daughter on the ground of alleged ingenuity in the certificate of the widow mother.

11. Therefore in the aforesaid backdrop and in the interest of justice we would direct as under :

(i) The respondent authorities may ascertain the veracity or the genuineness of the Admit Card as contained in Annexure A/5 to the OA from the West Bengal Board of Secondary Education and as per their revelation consider the claim of the applicant No.1, Swapna Bhowmick, if she is still willing to take up appointment;

Or in the alternative

- (ii) to consider the case of her daughter (applicant No.2) in the light of the judgment supra.
- (iii) The respondents would accordingly pass appropriate reasoned and speaking order within three months from the date of communication of this order.

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

(K.N.SRIVASTAVA)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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