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O.A. 350/1656/2016
M.A. 350/351/2018

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A.No.350/ 1656 /2016

In the Matter of :

An application u/s 19 of the
A.T.Act, 1985;

-And-

In the Matter of :

- 1) Moni Hansda, wife of Late Mahananda Hansda, aged about 50 years, residing at Vill. Uttar Kendbona, P.O.Dubrajpur, Via-Indpur, Dist. Bankura, Pin-722 136.
- 2) Archana Hansda, daughter of Lt. Mahananda Hansda (Ex-PA, Andol S.O. under Asansol Divn.) aged about 26 years, residing at Vill. Uttar Kendbona, P.O. Dubrajpur, Via-Indpur, Dist. Bankura, Pin-722 136.

.. Applicants

-Versus-

- 1) Union of India through the Secretary, Ministry of Communi-cation, Deptt. of Posts, Dak

Bhawan, New Delhi-110 001.

2) The Chief Postmaster General
W.B.Circle, Yogayog Bhawan,
Kolkata-700 012.

3) The Postmaster General, South
Bengal Region, Yogayog Bhawan,
Kolkata-700 012.

4) The ^{Sr.}Supdt. of Post Offices,
Asansol Division, Asansol-713301
Dist. Burdwan, West Bengal.

.. Respondents

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1656/2016
M.A.350/351/2018

Date of order : 29.19.

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member

**MONI HANSDA & ANOTHER
VS.
UNION OF INDIA & OTHERS
(D/O POST)**

For the applicant : Mr. K. Sarkar, counsel

For the respondents : Mr. B.P. Manna, counsel

ORDER

The applicants have preferred this O.A. to seek the following prayers:-

- a) To direct the respondents to cancel, withdraw, and/or rescind the memo dated 23/7/2015 as contained in annexure A-4 herein;
- b) To direct the respondent to consider the appointment of the applicant No.2 herein on compassionate ground;
- c) To direct the respondent to deal with and/or dispose of the representations of the applicant No.1 dated 05.04.2016 and 15.06.2016 as contained in Annexures 'A-5 & A-6' herein respectively.

2. They have pleaded that they come from 'Santhal' family, staying in a remote place of Bankura wherein for last few years recurrent bloodshed took place and socio economic condition was so poor that they could not reach the temple of justice due to utter financial crisis as well as lack of education.

The employee, deceased husband of the applicant No.1 left behind his widow and four daughters with no education staying in a district which was not only politically disturbed but also a place where one would find it difficult to come to the main post office for strike, bandh etc. and therefore, some delay took place

in filing the Original Application. The applicant No.2 is the unmarried daughter of the deceased who passed B.A. examination in the year 2015 from Sk. Birsha University and comes from ST family.

That their prayer for employment assistance on compassionate ground has been rejected vide Memo dated 23.07.2015(Annexure A/4) which would read as under:-

"In connection with above noted subject you are requested to provide the documentary evidence whether your husband Late Mahananda Hansda(expired on 13-06-1990) was an ex-employee of Asansol Postal Division in support of claiming compassionate appointment for your daughter and also clarify the reason behind submission of application for compassionate appointment after 25 years of death of your husband.

*Sr. Supdt. of Post Offices
Asansol Division, Asansol-713301"*

The applicants have pleaded that the purported memo dated 23.07.2015 is wholly bad in law and without jurisdiction inasmuch as the authorities failed to appreciate that the deceased husband of the applicant died in harness in the year 1990 leaving her family consisting of 5 dependent members, namely four minor, unmarried daughters with no source of income in an absolutely remote village and at the tender age the applicant No.1 had lost bread earner. Further, there was no help from the office of the respondents that after the demise one can get compassionate appointment under die in harness category. Therefore, the delay in approaching the authority was not intentional. She had no sufficient means of livelihood and though the Government initiated many welfare programmes of the awareness of the SC & ST the applicants never got any opportunity to avail of such benefits. That during the period when no daughters could be sent for minimum education, the applicant No.2 could achieve a Bachelors Degree from Sidho Kanho University but till date they are suffering from acute financial crisis.

That with such big family the applicant No.1 could not run from pillar to post but was wholly dependent upon the meagre pension. The statutory authorities have even failed to consider the judgments of the Hon'ble Apex Court for consideration by circle relaxation committee meeting against 5% vacancies for compassionate appointment that upheld the DOPT Guidelines. When the applicants have no means of livelihood and for the big family the only source of sustenance is a minimum pension, the respondent authorities have failed to discharge the judicious duty in respect of the case of the applicants. Hence, the applicants pray for a direction upon the respondents to grant appointment to applicant No.2 on compassionate ground.

3. Per contra respondents have refuted their claim submitting as under:-

"The instant case has been filed by one Smt. Moni Hansda seeking compassionate appointment for Smt. Archana Hansda, daughter of late Mahananda Hansda. Service records of late Mahananda Hansda is not available at this end as the preservation period of service book is 3(three) years after death/retirement or date of final sanction of pension whichever is later. However, as claimed in the instant original application by the applicant the following facts are stated:

Sri Mahananda Hansda, Ex-PA, Andal SO died in harness on 13.06.1990 leaving behind his widowed wife and four daughters. But in the copy of authorization for payment of DCRC, as annexed with the O.A, name of three daughters are recorded as Km. Santana Hansda, Km. Kalpana Hansda and Km. Archana Hansda and accordingly payment was made. Name of the youngest daughter i.e. Sulochana Hansda declaredly 23 years old at present was not figured in that memo. That his wife was asked to submit relevant documents for pension

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and pensionary benefits on 12.07.1990. The pension and other pensionary benefits were granted to the family of the deceased."

That "all of a sudden after a lapse of about twenty five years, Smt. Archana Hansda, daughter of late Mahananda Hansda preferred a representation dated 07.07.2015 before the Senior Superintendent of Post Offices, Asansol Division for compassionate appointment. On receipt of the representation dated 07.07.2015, the SSPOS, Asansol Division vide letter number B2/SFB/Misc/2013 dated 23.07.2015 asked the applicant to submit documentary evidence in support of claiming compassionate appointment and also clarify the reason behind submission of application for compassionate appointment after a lapse of twenty five years of death of the deceased official, Sri Mahananda Hansda."

That "in response to that letter dated 23.07.2015, the applicant did not submit the required documents and therefore the case of compassionate appointment could not be processed further. Rather she moved the instant O.A. before CAT."

Further that "in her application dated 07.07.2015 Smt. Moni Hansda merely mentioned her financial hardships but did not specifically mention the reason for submission of claim for compassionate appointment after the lapse of twenty five years. Therefore, the letter dated 23.07.2015 was issued by the Sr. Superintendent of Post Offices, Asansol Division only to clarify the reason for the same."

4. The Id. counsels were heard and materials on record were perused.
5. Since the impugned order is of 23.07.2015 and O.A. has been preferred in 2016, the M.A. seeking condonation of delay is allowed.
6. The discernible facts are as under:-

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(i) An order dated 12.07.1990(Annexure A/2) authorising Moni Hansda to receive pension and DCRG clearly spells out that it is a case of "Late Mahananda Hansda, Ex P.A, Raniganj H.O." who "expired while in service, on 13.6.1990", therefore, non-availability of records is no excuse.

(ii) Further, "Authorisation of the Director of Accounts (Postal), Calcutta-12 is conveyed for payment noted against each of the family members below of Late Mahananda Hansda, Ex P.A., Andal, S.O. under Raniganj HPO representing the amount of DCRG on the event of death of the official while in service on 13.06.90

:-

Sl. No.	Name of the payee	Share & amount to be drawn & disbursed	To whom the amount be payable
1)	Smt. Mani Hasda w/o Lt. Mahananda Hasda, Ex P.A. Andal	Rs.3450.00	Smt. Mani Hasda
2)	Km. Santana Hasda, (Minor daughter)	Rs.3450.00	Smt. Mani Hasda
3)	Km. Kalpana Hasda (minor daughter)	Rs.3450.00	Smt. -do-
4)	Km. Archana Hasda (Minor daughter)	Rs.3450.00	Smt. -do-
		Rs.13,800.00	(All are minor daughters being natural guardian)
The expenditure is debitable to the head "355-G-I(4)/.....(not legible)"			

The order further denotes that Archana Hansda was the third minor daughter when her father expired. The other two minor daughters were Santana and Kalpana. Therefore, the status of the applicant No.2 is not shrouded in mystery.

(iii) Archana Hansda completed her Madhyamik, Higher Secondary and Graduation under very pressing socio economic conditions and wholly on the strength of her mother's pension.

(iv) The reason why a family pensioner has been asked to provide documentary evidence of "whether your husband Late Mahananda Hansda (expired on 13-06-1990) was an ex-employee of Asansol Postal Division in support of claiming compassionate appointment for your daughter and also clarify the reason behind submission of application for compassionate appointment after 25 years of death of your husband," cannot be countenanced.

7. It is true that compassionate appointment cannot be granted after a considerable time, but looking at the socio economic condition of Santhals of West Bengal who belong to remotest areas, which are mostly inaccessible by road, in my considered opinion the daughter of a Santhal who has been able to achieve success consistently should deserve some consideration to uplift the spirits of such daughters who fight day in and day out to get educated appropriately while nurturing a hope in their mind that one day they would eke out a livelihood in a decent manner.

8. Accordingly, under the special circumstances, the O.A. is allowed. Respondents are directed to consider the case, untrammelled by the objections raised in the memo dated 23.07.2015. No costs.

(Bidisha Banerjee)
Judicial Member