

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1384/2016

Date of order : 26.9.19

LIBRARY

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

Sri Sumit Kumar Das,
S/o Late Ananga Mohan Das,
Village & P.O. Bargodagodar,
Pin-721652, PS.Nandakumar,
District-Purba Medinipur

.....Applicant

-Versus-

1. Union of India, service through
the Secretary, Ministry of Finance,
Department of Revenue, North Block,
New Delhi- 110001;
2. The Commissioner of Central Excise,
Kolkata-I Commissionerate, Customs House,
15/1, Strand Road, Kolkata-700001;
3. The Additional Commissioner of Central
Excise (First Appellate Authority), Kolkata-I
Commissionerate, Customs House, 15/1
Strand Road, Calcutta-700001;
4. The Deputy Commissioner (P&V) Central
Excise, Kolkata-II, 15/1, Strand Road,
Kolkata-700001;
5. The Deputy Commissioner (CPIO), Haldia
Commissionerate, Central Excise, Kolkata,
25, Princep Street, Kolkata-700072;
6. The Assistant Commissioner (CPIO),
Office Commissionerate, Customs House
(3rd floor), 15/1, Strand Road,
Kolkata-700001

.....Respondents

For the applicant : Mr. B. Chatterjee, counsel
For the respondents : Mr. P. Mukherjee, counsel

ORDER

The applicant has assailed an order dated 16.06.2016 issued pursuant to the decision of this Tribunal in O.A.No.47/2009 rendered on 21.11.2011. The operative portion of the order dated 21.11.2011 reads thus:-

"15. The said OM dated 5.5.03 makes it abundantly clear that if in the meeting of the first committee, the applicant is found to be in an indigent condition the case of the applicant will be considered in subsequent occasions. In the above decision in Nawal Mugal the Tribunal has observed that the case cannot be closed on expiry of 3 years and if the family is in indigent condition the same has to be considered on 3 consecutive occasions. The decision in Civil. Misc. Writ Petition No 13102 of 2010 of Hon'ble Allahabad High Court also refers.

16. In view of the foregoing discussions that part of the reply which states that the case has to be automatically closed after 3 years is not sustainable and is quashed. The respondents are directed to consider the case of the applicant along with other similarly situated persons. It is made clear that no opinion has been expressed on the merits of the case while considering the case of the applicant for offering compassionate appointment as Sepoy.

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

2. The order dated 16.06.2016 impugned in the present O.A. shows consideration in the following manner:-

"Keeping in mind the above, instructions and judicial pronouncements, the Committee decided as matter of policy that the claims of the following two categories of applicants are liable for rejection and hence recommended for permanent closure:

- (i) *Where applicant does not possess the required educational qualification in terms of G.S.R. 233E of Recruitment Rules of Havaldar(Group-C), 2015 in the Schedule under column-7 i.e. Matriculation or equivalent from any recognized Board.*
- (ii) *Where the death of the deceased employee has occurred more than a decade i.e. prior to 01.01.2006.*

Decision :

The Departmental Screening Committee has gone through the case of Shri Sumit Kumar Das and observed that "the incidence of death has occurred more than a decade back. Hence, does not merit any further consideration in view of decisions of the Hon'ble

Courts/Tribunals, as discussed above." The Competent Authority has subsequently been pleased to approve the recommendation of the DSC dated 09.02.2016.

Accordingly, the case of Shri Sumit Kr. Das, D.O.B.- 14.09.1972(S/o-Late Ananga Mohan Das) stands closed and disposed off."

3. It is noted that the financial condition of the family is the essence in compassionate appointment cases whereas while issuing the speaking order the respondents instead of deliberating upon the financial condition of the family has rejected the matter wholly on the ground that the case is more than a decade old whereas the Inspector, Central Excise and Service Tax, Midnapore Division, Kharagpur, who verified the case of the applicant and prepared the physical verification report on 16.01.2014, has specifically disclosed in his report the financial condition of the family as under:

"4. Financial/employment status: Shri Sumit Das resides in the above mentioned address in a very small old house which is made up of bricks with Asbestos roof consisting of two small rooms and one small veranda. The area of land in which the building is situated is about 2.5 Decimel which is an ancestral property and not yet been partitioned between the legal heirs of late Ananga Das. Shri Sumit Das is having one elder brother who resides separately in other place and now working as Sahayak in Gram Panchayat and one sister who is married. Shri Sumit Das earlier engaged with the Agency work in Rose Valley but now he is completely unemployed and now engaged himself in labour work on daily wages basis for his livelihood so, as a result he is now leading his life in a hand to mouth condition."

4. Since the speaking order is not in conformity with the facts recorded in the aforesaid report, concerning the financial condition of the family, which is the prime and sole consideration in a matter of compassionate appointment, the speaking order is quashed. The matter is remanded back to the authorities for consideration afresh untrammelled by the earlier view. Let appropriate reasoned and speaking order be issued within 3 months. In the event the

respondents feel that the financial condition of the family is such that the matter deserves further consideration, they shall place the matter before the Compassionate Appointment Committee or Screening Committee, the decision whereof would govern the fate of the application.

5. The O.A. is disposed of. No costs.

(Bidisha Banerjee)
Judicial Member

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