

Item- 06-07-2021
27

WP.CT 15 of 2021

sg Ct. 16

Union of India
Versus
Maimul Begam & Anr.

(Through Video Conference)

Mr. Shankar Ranjan Sen, Adv.
...for the petitioner/UOI

The wife of the deceased was the applicant before the Central Administrative Tribunal with a prayer for quashing of the Office Order dated 19th February, 2016 and for giving appointment to her younger son who had attained majority recently.

It appears from record that the husband of the private respondent no.1 died on 6th May, 2009 and till about 2016, the petitioners did not consider the application for compassionate appointment although, it is not being denied that the petitioners are entitled to compassionate appointment. The private respondent No.1 applied before the appropriate authority on 29th March, 2012, stating that instead of her elder son, the younger son may be considered for suitable appointment and in view of the fact that he was only 14½ years on 29th March, 2012, his case may be considered after he attained the prescribed age of appointment in Railway Services.

It is unfortunate that till July 2016, the case of the petitioners was not considered. The wife of the deceased has given a justification for not giving the appointment to his elder son. The private respondent no.1, on 26th July, 2016, made a

further representation and made a fervent appeal to the authorities to consider the case of appointment of his younger son to save the family from starvation. The economic need of the family for a compassionate appointment has never been denied.

However, on 31st May, 2017, the authority concerned instead of considering the representation of the petitioners with regard to the appointment of the younger son on compassionate appointment, rejected the said claim on a specious plea that the educational certificates furnished in respect of her elder son was fake and without even considering the need of the family, rejected the claim of the petitioners for compassionate appointment. The poor widow was punished for an alleged offence of her elder son at a point of time when the fact remains that the prayer for compassionate appointment of the elder son was withdrawn much earlier and at the time of consideration for compassionate appointment the earlier application ought not to have been considered.

We feel that the learned Tribunal has correctly relied upon the coordinate Bench decision in ***Sushila Bauri & Anr. vs. Union of India & Ors.*** in ***WP.CT No. 249 of 2013*** dated 4th July, 2013 in which on similar circumstances, the authorities were directed to reconsider the case for compassionate appointment.

The learned Counsel for the petitioner has tried to impress upon us by relying upon the judgment of the Hon'ble Supreme Court in the case of ***Local Administration Department & Anr. vs. M. Selvanayagam alias Kumaravelu*** reported in ***(2011) 13 Supreme Court Cases 42*** and submitted that the immediate need

for compassionate appointment is lost by reason of lapse of time.

Now the question arises who is responsible for such inordinate delay. The principle of social justice is defeated by the long neglect and inaction in not considering the application of the widow filed in time. It has not been disputed even before the learned Tribunal that the criteria for compassionate appointment of the deceased has not been fulfilled.

On such consideration, we do not find any reason to interfere with the order passed by the learned Tribunal. However, in view of the pendency of this application, we direct the authorities to reconsider the claim of the applicants within three weeks from date in the light of the observations made by us in this order and pass an order afresh uninfluenced by any other previous orders or views.

We hope and trust that the authorities concerned shall sympathetically consider the case for compassionate appointment considering the economic need of the family.

The writ petition accordingly stands dismissed.

In view of the fact that the respondents are not represented, the petitioner and the department are directed to communicate this order to the respondents at the address mentioned in the cause title within one week from date by speed post with acknowledgment due.

All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)

