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W.P.C.T. 58 of 2023
With
I.A. No.CAN 1 of 2023

Union of India & Ors.

Vs.

Anuj Kumar Lonia & Ors.

Mr. Nilanjan Bhattacharya,
Ms. Rama Chakraborty,
Ms. Ipsita Ghosh ... for the petitioners.

Mr. P. C. Das ... for the respondent no.1.

One Ram Pher Lonia was working in Rifle Factory, Ishapore, District – North 24 Parganas. He died on 28th April, 1989 while he was in service under the petitioner nos.2 and 3 leaving behind his widow, two sons being the respondent nos.1, 2 and 3 respectively and one daughter.

The second respondent is the widow of the deceased employee, Ram Pher Lonia. The second respondent sought for compassionate appointment for her elder son, Ajoy Kumar Lonia. After considering the said request, the petitioners granted compassionate appointment to the third respondent elder son of the deceased on 20th December, 1990. The second respondent worked till 20th December, 2000 till he was declared Medically Boarded Out (MBO). He was unmarried at that time. The second respondent being the

widow of the deceased employee sought for compassionate appointment for her younger son, the first respondent herein on 13th March, 2001. The said request was rejected vide order dated 9th August, 2002.

From the materials on record, it is seen that all the applications for appointment on compassionate ground, which were closed due to non-availability of vacancies for three years time limit was reopened or the waiver of 3 years time limit. The request of the second respondent for appointment on compassionate ground for her younger son was reopened by letters dated 11th May, 2015 issued by Junior Works Manager / DLC for General Manager and 18th May, 2016 issued by Assistant Work Manager / A for and on behalf of General Manager. After considering the said request of the second respondent for appointment on compassionate ground of her younger son, the Works Manager / Admin for and on behalf of the General Manager rejected the said request by the order dated 29th May, 2017. The second respondent filed appeal dated 16th June, 2017 and the same was rejected by the order dated 3rd August, 2017.

The widow and the two sons of the deceased employee approached the Tribunal for appointment on compassionate ground for first respondent, the younger son of deceased employee by filing the present original application. The petitioners resisted the said application before the Tribunal on the ground that there is no

provision for giving compassionate appointment for more than once. Further, the third respondent, the brother of the first respondent, is married on 28th May, 2015 when he filled the proforma. As per DOPT FAQ (No.14014/02/2012-Estt.(D), dated 30th May, 2013, Part No.-14), a married brother is not dependent and the third respondent is not entitled for appointment on compassionate ground. The first respondent, the first son of the deceased employee is unmarried having no family was granted family pension and eligible allowances and terminal benefits. The second respondent is also drawing family pension.

The Tribunal without considering the above materials has held that the third petitioner did not consider the financial conditions of family of the respondents and the impugned order was passed by Works Manager for and on behalf of the General Manager and remanded the matter to the authority concerned to consider the prayer of the respondents and to pass order within three months. The said order is erroneous on the following grounds.

The request of the second respondent for appointment on compassionate ground for her second son was rejected as early as on 9th August, 2002. The same was reopened when the three years' time limit for giving appointment on the request of compassionate appointment was waived. In the present case, the second

respondent's case was re-opened by letter dated 11th May, 2015 and 18th May, 2016. The first letter was issued by Junior Works Manager for and on behalf of the General Manager and the second letter was issued by Assistant Works Manager on behalf of the General Manager.

In view of the same, the reasoning of the Tribunal that instead of General Manager only Works Manager issued the impugned order, therefore the impugned order is invalid cannot be accepted.

The impugned order is signed by Works Manager only on behalf of General Manager. Further, the Tribunal having taken note of the fact that the second respondent is receiving family pension after death of her husband on 28th April, 1989. The third respondent elder son who was appointed on compassionate ground is also receiving family pension and other allowances on being declared Medically Boarded Out. It is not in dispute that the respondent nos.2 and 3 are receiving family pension. The request of the second respondent was considered for appointment on compassionate ground for her elder son, the third respondent herein when the employee died on 28th April, 1989 and the respondent no.3 was appointed on 20th December, 1990. He was in service for 10 years till he was declared as Medically Boarded Out.

For the above reasons, the impugned order of the Tribunal is set aside. Consequently, the writ petition is allowed. The O.A. is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official website of this Hon'ble Court.

(V. M. Velumani, J.)

(Rai Chattopadhyay, J.)