

10.08.2023
Item No.06
Court No.11
Avijit Mitra

WPCT 107 of 2019

In re: An application under Article 226 of the
Constitution of India;
And

Sudama Prasad
- Versus -
Union of India & anr.

Ms. Pompey Bose,
Mr. Abhijit Sarkar,
Mr. Raja Biswas
...for the petitioner
Mr. Proloy Bhattacharya
...for the respondents

The present writ petition has been preferred
challenging an order dated 14th June, 2019 passed by
the learned Tribunal in the original application being
O.A. No.1415 of 2018.

Ms. Bose, learned advocate appearing for the
petitioner submits that the petitioner's father was an
employee under the Railways. In the year 1981 a
scheme was formulated and published by the Railways
towards consideration of appointment of wards of
Railway employees in Group 'D' posts. In terms of the
said scheme, the writ petitioner/applicant applied for
appointment in any Group 'D' post. Responding to
such application, the authorities asked him to appear
in a medical examination. He duly appeared in the
said examination and was declared fit. However, the

authorities thereafter maintained a deceptive silence and did not issue any letter of appointment in his favour. Aggrieved thereby, the petitioner submitted several representations to different authorities but the same were not considered and his claim was kept pending. In the midst thereof, the petitioner attained the age of 60 years and as such, he submitted a further representation on 13th July, 2016 to the respondent no.2 praying for appointment of his son and considering the same, the said respondent passed an order on 21st September, 2016 rejecting the petitioner's claim. Aggrieved by the said order dated 21st September, 2016, the petitioner approached the learned Tribunal.

Ms. Bose argues that the arguments, as advanced on behalf of the petitioner before the learned Tribunal, were not considered and his claim was mechanically rejected alleging that he had belatedly approached the authorities more than 30 years after his father expired though the records would reveal that the petitioner first approached the authorities much earlier in the year 2004. The learned Tribunal proceeded being oblivious of the fact that the representation dated 13th July, 2016 was submitted by the petitioner *inter alia* praying for grant of appointment to his son.

Such contention of Ms. Bose has, however, been denied and disputed by Mr. Bhattacharya, learned advocate appearing for the respondents.

The petitioner alleged that he was called for a medical examination way back in the year 1981 and that even after he was declared fit, the authorities did not offer him any employment. However, in spite of such alleged inaction on the part of the authorities, the petitioner did not take any immediate step save and except submission of certain representations. Such representations submitted did not confer any right upon the petitioner to be considered for appointment. The petitioner's father retired in the year 1985 and expired in 1986. The first formal representation was submitted by the petitioner to the respondent no.2 on 13th July, 2016 stating *inter alia* that as he had attained 60 years of age, his son may be granted appointment. There has thus been an inordinate and unexplained delay on the part of the petitioner. The petitioner neither could produce the purported scheme, as referred to in the representation dated 13th July, 2016 nor any extant rule in support of his claim for grant of appointment to his son.

In the said conspectus, the learned Tribunal did not interfere with the order dated 21st September, 2016 and rejected the petitioner's claim. We do not

find any infirmity in the said order and as such no interference is called for in the present writ petition.

The writ petition is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)