

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

**Original Application No.367/2018
Ahmedabad this the 28th of January, 2020**

CORAM:

Hon'ble SH.M.C.Verma, Member (J)

Dilip Sana Solanki,
(Son of deceased Sana),
Chhagan Solanki Ex.Jamadar Mate (Trackman),
Engineering Department),VP Nagar,
Chhayapurri Railway Station,Channi,
Vadodara-391740.

...Applicant

[Advocate : Shri Harjot Singh]

Versus

1. Union of India
Notice to be served through
General Manager of Western Railways,
Headquarter Western Railways, Church gate,
Mumbai – 400 020.

2. Divisional Railways Manager (DRM(E)-Vadodara,
Western Railway, Pratapnagar,
Vadodara-391740.

...Respondents

[Advocate : Ms.A.B.Makwana]

**O R D E R (Oral)
M.C.Verma, Member (Judicial)**

1. Being aggrieved by non grant of compassionate appointment, applicant has preferred instant O.A. having prayer to quash Annexure A-I, whereby compassionate appointment has been denied. Annexure A-I is addressed to the father of the applicant and it is stated therein that request for grant of appointment on compassionate ground to your son Shri Dilipbhai has been referred to HQ/CCG. Competent authority has regretted your request on the ground that there being no sufficient ground warranting compassionate ground appointment as all the five children are married and the

family has received adequate settlement dues as well as the pension for livelihood.

2. The facts as has been pleaded in his O.A. by the applicant briefly are that his father, Shri Sana Chagga Solanki was an ex employee of Railway and when was posted as Trackman at Chhayappuri Railway Station of Vadodara Division and in December 2008, while checking the track got ill & faint, was admitted in Railway hospital wherein he went in comma, remained in comma in hospital for about two months and was declared paralysed. That a letter was received on 25.11.2009 mentioning that, "as being unit to work he has to take voluntary retirement as decided by Railway Department". Thereafter, on 23.08.2014 he got died leaving behind wife, two sons and three daughters, thus, applicant applied vide applications dated 15.12.2008, 11.10.2008 and 26.05.2009 made to the Divisional Railway Manager (E) BRC for his appointment on compassionate ground. Respondents vide their communication dated 13.10.2010 (Annex.A/1) informed that "as all the five children are married and the family has received adequate settlement dues as well as pension for livelihood" he is not eligible to avail any job", hence this O.A.

3. Respondents have filed their reply stating that at the time of medical invalidation of deceased employee, his all children were major and married, thus the competent authority rightly conveyed rejection of his claim vide order dated 19.04.2011 not only on ground of married children but on ground of adequate settlement dues and family pension for livelihood.

4. Heard. Learned counsel for applicant did not opt to adduce oral argument. He filed the written argument only. The written arguments precisely are that the father of the

applicant took VRS on medical grounds as he was suffering from paralysis etc. Hence that was accepted by respondents on 26.11.2019 that request of applicant who is the son of the retired employee of the respondents applied for compassionate appointment but respondents have rejected the same on the ground that all children of the retired employee are married and applicant is not eligible for compassionate appointment and that family has also received settlement dues as well as benefits. It is also stated in the written argument that while interpretation of all the clauses and rules and order of Railways, the railways should work in favour and extend all help to the ward of the deceased. Averment of one circular has also been reported in the written argument with quotation is as under:

“....with reference to The Supreme Court’s Judgment dated May, 1994 in the cause of Umesh Kumar Nagpal Vs. State of Haryana and other (JIT 1994 (3) S.C.525) has laid down the following important principle in this regards:-

(v) Neither the qualification of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see he family though the economic calamity.”

5. It has been emphasised in written argument that there is no such circular or rules or regulations that marital status of children can be criteria to disallowance for providing compassionate appointment to the ward of the deceased. It is also stated in the written argument that while Railway Board Circular No.E(NG)II/98Rc-1/64 dated 31.05.2011 General Manager may have to consider and decide the time barred case of the compassionate appointment.

6. Learned counsel for respondent submits that applicant was 31 years of age, he was married and therefore he was

not given appointment. They could not assign any other reason for not giving the compassionate appointment. She also urged that sufficient settlement amount was paid to the employee and the family cannot be said to be in indigent condition, therefore it cannot be said that family of the employee was not given job.

7. Considered the submissions. Annexure A/1, which has been assailed as impugned order but if we go through its content, it transpires that it is merely a communication letter and not the order vide which applicant's case has been rejected by the Authority. The averment made in the body of said letter reads as under:

"With reference to the above it is advised that, your request for grant of appointment on compassionate ground to your son Shri Dilipbhai has been referred to HQ/CCG. Competent authority has regretted your request on the ground that there being no sufficient ground warranting compassionate ground appointment as all the five children are married and the family has received adequate settlement dues as well as the pension for livelihood."

8. Undoubtedly, the status of the applicant as married or un-married would not be the sole criteria to reject this case. Though learned counsel for applicant has specifically stated at Bar that he does not want to advance oral argument, despite that a query was put to him as to under which rules or scheme applicant can claim such type of appointment when case of her father is of VRS and not of medically de-categorization and he referred to Annexure A6. It is enquired how much period of service for superannuation at the time of VRS of the employee was left out or what was the age of the employee at the time of VRS and learned counsel for applicant claimed ignorance but learned counsel for respondent submits that date of birth of employee was 01.06.1953 and retirement took place on 04.11.2009.

9. Annexure A/6 also deals with the age criteria. There is provisions that relaxations qua age may be given under the scheme of appointment and it does not speak that a married son cannot be given appointment. It is only the dependency which has to be taken note of surrounding and other requirement for giving compassionate appointment.

10. Taking note of entirety, I do find it justified in interest of justice to quash the impugned order and to refer the matter to the respondent authority to consider afresh the case of applicant and for decision by competent authority within three months from the date of receipt of copy of this order.

11. With above said observation and direction OA stand disposed of. accordingly. MA if any pending also stand disposed of accordingly.

(M.C. VERMA)
MEMBER (J)

