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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

NEW DELHI.

DA 1197/95

New Delhi this the 23th day of April, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. Shri Krishan Kumar s/o  
Shri Moti Lal (Minor)
2. Shri Ravi Kumar s/o  
Shri Moti Lal (Minor)  
through:  
Karam Chand s/o Sh. Ramji Lal,  
R/O Br. No. E-33A, Railway Loco Colony,  
Delhi Sarai Rohilla, Delhi-6.

(By Advocate Shri V.P. Sharma, through ... Applicants  
learned proxy counsel Sh. Yogesh Sharma)

Vs.

1. Union of India through the General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, Bikaner Dn.  
Bikaner (Raj.)
3. The Chief Health Inspector,  
Loco Colony, Delhi Sarai Rohilla,  
Delhi-6

(By Advocate Shri P.S. Mahendru, learned ... Respondents  
counsel through proxy counsel Sh. D.S. Mahendru)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicants, who are minor children of deceased late Shri Moti Lal have filed this application on 4.7.1995 claiming family pension and compassionate appointment for applicant No.1. Shri Sharma, learned counsel for the applicants has submitted that he is not pursuing the first remedy and only seeks a direction to the respondents for consideration of compassionate appointment in respect of applicant No.1. According to the learned counsel, the applicant has submitted a representation through one Shri Karam Chand, Safaiwala who is his uncle as well as an employee of the Railways, to Respondents 1 and 2 for appointment on compassionate ground after relaxation of the rules. He submits that the date of birth of applicant <sup>no.</sup> 1 is 15.5.1981 and <sup>he</sup> would, therefore, complete 16 years on 15.5.1997. He relies on Master Circular

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No.16 Compendium on Appointment on Compassionate Grounds, the relevant portion of which reads as follows:-

" Normally the persons seeking appointment on compassionate grounds should fulfil the conditions of eligibility regarding age and educational qualifications prescribed for appointment to the posts or grade concerned. However, the upper age limit may be freely relaxed on merits of the cases. The appointment in Government may also be relaxed upto one year with the personal approval of the General Manager. Relaxation of the lower age limit beyond one year will require the approval of the Ministry of Railways. In making appointments on compassionate grounds, Divisional Railway Manager may relax age limit in the case of appointment to Group 'D' posts." (Emphasis added)

Learned counsel for the applicant, therefore, submits that the respondents should consider the case of applicant No.1 for appointment on compassionate grounds in terms of the above rules after obtaining necessary relaxation in age from the competent authority due to his extreme financial distress.

2. I have seen the reply filed by the respondents and have also heard Shri D.S. Mahendru, learned proxy/<sup>counsel</sup>for the respondents. The respondents have stated that applicant no.1 is only 9 years of age but the applicant claims his age as 14 years. Learned counsel, therefore, submits that this application is <sup>not</sup> maintainable as the applicant is much below the age limit as prescribed under the rules for being considered for appointment on compassionate grounds against any suitable post.

3. Considering the facts and circumstances of the case, the dispute is one of facts regarding the actual age of applicant No.1. It is seen from the above referred to Railway's Board circular on compassionate appointment that the competent authority can in a particular case take a decision to relax the lower age limit even beyond one year. There is nothing placed on record by either of the parties to support their contention regarding the actual date of birth of applicant No.1. In the facts and circumstances, therefore, it is not possible to direct the respondents to consider the case of the applicant for appointing him on compassionate grounds on the basis of the materials placed in this application. However,

it is left open to the applicant No.1 to make a suitable representation to respondent 2, enclosing sufficient proof of his date of birth to consider his case for compassionate/ <sup>appointment</sup> in terms of the relevant rules/instructions, including relaxation of age. If any such representation is received by the respondents, the same shall be considered by them in accordance with the rules and the result intimated to the applicant within three months thereafter.

O.A. is disposed of as above. No costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

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