

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.800 of 1995

New Delhi, this the 11th day of March, 1996.

(37)

Hon'ble Mr. N. Sahu, Member(A)

1. Joginder Singh
S/o Late Sh. Vishambhar Singh
R/o 12/239,
Chaupasni Housing Board
Jodhpur

2. Smt. Ram Beti Devi
W/o late Sh. Vishambhar Singh
R/o 12/239,
Chaupasni Housing Board
Jodhpur

... Applicants

(By Advocate: Sh. B. S. Mainee)

Versus

Union of India : through

1. The Secretary
Railway Board
Ministry of Railways
Rail Bhawan
New Delhi

2. The General Manager
Northern Railway
Baroda House
New Delhi

3. The Divisional Rly. Manager
Northern Railway
Jodhpur

... Respondents

(By Advocate : Sh. H. K. Gangwani)

ORDER

By Sh. N. Sahu, Member(A) -

This OA is directed against the impugned order dated 11.01.1995 passed by Respondent No.3 by which the claim of Applicant No.2 for appointment on compassionate grounds after the death of his father has been rejected. Late Sh. Bishambher Singh who worked as Assistant Station Master, Jodhpur Division



of the Northern Railway is the father of Applicant No.1 and the husband of Applicant No.2. He died of Cancer on 04.12.1984. Applicant No.1 was minor, aged about 10 years only. Applicant No.2 submitted a representation on 25.01.1985 for a compassionate appointment. Respondent No.3 sent a reply dated 30.01.1985 advising Applicant No.2 to send another application after Applicant No.1 attained the age of 18 years. Accordingly, after he became a major, she sent another representation to Respondent No.3 on 28.11.1991 seeking compassionate appointment to her son. This claim was rejected on the ground that the elder son of the applicant was a Government servant and she herself was also getting a family pension. An appeal was submitted against the aforesaid order to the General Manager, Northern Railway on 21.07.1994. She pointed out that all the savings were spent in the treatment of her late husband. It was also pointed out that her elder son was married during 1977 and even during the lifetime of her husband, he is living separately. After the aforesaid representation was given, Respondents No.1 and 2 forwarded the case of the applicant to the Railway Board. Respondent No.3 was informed that the Ministry of Railways did not condone the delay for giving compassionate appointment. This is the impugned order.

2. After notice the respondents besides questioning the jurisdiction stated that Railway Board could consider cases of other than first ward which are more than five years from the date of occurrence

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[Signature]

of events such as death. The respondents state that the eldest son Sh.Rajbir Singh was already in Govt. employment in the railway itself that too in a Class-III post. This aspect was concealed by the applicant while claiming compassionate appointment. The railway administration also invited the attention of the Court to the circular dated 28.11.1994 issued by Ministry of Personnel. Umesh Kumar Nagpal's case has been reiterated in this circular. According to the respondents, Annexure A-1 conveying the refusal of Railway Ministry to condone the delay is in accordance with the observations of the Hon'ble Supreme Court. As far as applicant No.2 is concerned, the crises occurred in 1984 and at that time she had an unmarried daughter who was eligible for compassionate appointment but Applicant No.2 waited for a period of seven years for his son to grow into a major instead of claiming an appointment for the daughter.

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3. Learned counsel for the applicant states that the power of condonation if with the General Manager. According to the learned counsel, the General Manager was also satisfied with the merits of the claim. There was no need for him to send this proposal to the Railway Board.

4. I have carefully considered the submissions. This aspect has been discussed in my order dated 11-3-98 in OA-2197/97. I have relied on the decision of the Hon'ble Supreme Court in Umesh Kumar Nagpal Vs. State of Haryana & Ors. - (1994) 4 SCC 138 wherein it is stated as under:



Held:

The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. (Para 2)

AO

Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above Classes III and IV, is legally impermissible. (Paras 3 to 5)

Compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over. (Para 6)

Recently, the Hon'ble Supreme in Haryana State Electricity Board & Anr. Vs. Hakim Singh - 1998 SCC (L&S) 31 held as under: Placitum succinctly sums up the position:



Appointment - compassionate appointment - request for, after a long time(14 years in the present case) - rejecting of such request - upheld - request for compassionate appointment made when the deceased employee's son attained majority - the request rejected by the appellant board on the ground that departmental circulars prescribed maximum three years time for making such request - the High Court holding that "in case of minor children the period of three years would be applicable from the date he becomes major" - High Court's interpretation set aside - if the family members of the deceased employee can manage for 14 years after his death, one of his legal heirs cannot put forward a claim as for it is a line of succession by virtue of a right of inheritance - the object of provisions is to give succour to the family to tide over the sudden financial crises befallen the dependents on account of the untimely demise of its sole earning member. (paras 12,13 & 16).

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5. In view of the above, there is absolutely no case for compassionate appointment after a lapse of a decade from the date of occurrence of the event. A compassionate appointment can be considered only when there is a finding of financial crises in the family of such a magnitude that the family cannot survive and under those circumstances only one of the wards can be given compassionate appointment provided other conditions of eligibility are reasonably satisfied. If the family had carried on for so long, there is no reason as to why it has to depend on a compassionate job. The applicant could, like any other young man in



the country apply, compete and can be selected for a
job in the normal course.

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6.. OA is dismissed. No costs.

N. Sahu

(N. Sahu)
Member(A)

11-3-98,

/Kant/