

13

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1942/97

New Delhi this the 28th day of January, 1999.

Hon'ble Shri S.P. Biswas, Member(A)

1. Sh. Asutosh Uppadhaya,  
S/o Sh. Siddish Chandra Uppadhaya,  
R/o A-39, Ashok Enclave,  
Piragarhi Chowk,  
Rohtak Road,  
New Delhi-41.

2. Sh. Siddish Chandra Uppadhaya,  
S/o Sh. Pearey Lall,  
R/o Moh. Keshav Nagar,  
Khurja Gate,  
Chandausi.

( ..... Applicants

(through Sh. G. D. Bhandari, advocate)

versus

1. Union of India through  
the General Manager,  
Northern Railway,  
Hq. Baroda House,  
New Delhi.

2. Divl. Railway Manager,  
Northern Railway,  
Moradabad.

( ..... Respondents

(through Sh. P.S. Mahendru, advocate)

ORDER

The undisputed facts are that applicant No.2, father of applicant No.1, was to finally superannuate from the services of the Railways w.e.f. 30.09.87. However, he had to retire w.e.f. 02.03.87 since the alternative job of Assistant Superintendent in the same grade that he was holding immediately prior to superannuation and offered to him on 18.02.87 was declined by him on grounds of not being able to cope with the work because of lack of experience. On applicant No.2's refusal on 18.02.87, he was allowed to retire from the services w.e.f. 02.03.87 with the

2

stipulation that the medical decategorisation will not confer upon him any right to claim appointment in railway service of his ward/son. Applicant No.2 was medically decategorised on 03.10.86.

2. In the first round of litigation, the applicant approached this Tribunal by filing an O.A.1282/96 which was decided on 07.06.96 by directing the respondents to dispose of applicant No.2's representation dated 02.01.91 with a speaking order. The respondents carried out the order and issued Annexure A-1 communication indicating reasons as to why the offer of compassionate appointment cannot be given to applicant No.1. The reasons recorded by the respondents are as under:-

"Consequent upon filing case in CAT/NDLS in OA 1282/96 the facts of the case have once again been examined and in terms of Rly.Board's letter E(NG)III/78/701/1 dt. 3-9-83, you are now advised that your father declined the alternative job carrying same emoluments as offered to him and he was retired from service with clear stipulation that retd. man would not confer upon him any right of employment of a ward. Hence the case does not merit any ground for your appointment on compassionate grounds."

It is the aforesaid A1 communication dated 12.2.97 that is under challenge herein.

3. It is well settled in law that the provisions to give such an appointment are intended to provide immediate succor following the death of the only or the main bread-earner. The principles that should govern such offers have been enunciated by the Apex

15

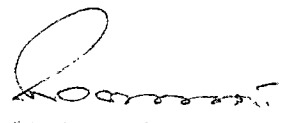
Court in the case of Haryana State Electricity Board & Anr. Vs. Hakim Singh (1997(2) ATJ 665. This case refers to a few other important judicial pronouncements by the Apex Court as in cases of Haryana State Electricity Board Vs. Nareh Tanwar & Anr. (JT 1996(2) SC 542, Umesh Kumar Nagpal Vs. State of Haryana & Ors. (1994(4) SC 138 and Jagdish Pd. Vs. State of Behar & Anr. (1996(1) SCC 301. In short, the broad principles are as follows. Mere death of an employee in harness or incapacitation does not entitle an employee to a job in favour of his dependent. Financial condition of the family must be taken into consideration. The consideration for such employment is not a vested right which can be exercised at any point of time in future. The purpose is to enable the family to get over the financial crisis which it faces right at the time of the death of the sole bread - earner. Compassionate appointment cannot be claimed and offered after the lapse of time and after the crisis is over.

4. I find that the applicant was offered an alternative job following his decategorisation. This was only a few months before applicant's regular date of retirement. Applicant is only trying to take advantage of Railways' circulars at A9, A10 & A12 without establishing, <sup>by filing</sup> ~~with~~ prescribed documents, the conditionality of immediate economic distress.

5. Even if we ignore the issue of limitation, we do not find that the family of the applicant herein is in deep financial crisis requiring help in terms of offer of appointment to the applicant No.2. It is

9

necessary to mention here that a set of consolidated instructions on this issue have been issued by the Department of Personnel in its circular dated 30.06.87 which prescribes that any employee claiming such benefit should come out with details that they do not have any other source of income or anybody of the same family otherwise gainfully employed that could provide adequate and sufficient financial support in tiding over the problem. We do not come across any such details provided by the applicant. Since the principle on the basis of which such an appointment could be offered have not been provided, I consider it not a fit case for exercising our discretionary jurisdiction under Article 226 of the Constitution and provide relief based on unsubstantiated documents. The O.A. is without any merit and is accordingly dismissed, but without any order as to costs.

  
(S.P. Biswas)  
Member(A)

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