

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.1509/88

DATE OF DECISION:28.9.1990.

P.N. CHATURVEDI

....APPLICANT

VERSUS

UNION OF INDIA & ANOTHER

....RESPONDENTS

SHRI UMESH MISRA

..COUNSEL FOR THE PETITIONER

SHRI S.N. SIKKA

..COUNSEL FOR THE RESPONDENTS

CORAM:

HON'BLE SHRI T.S. OBEROI, JUDICIAL MEMBER.

HON'BLE SHRI I.K. RASGOTRA, ADMINISTRATIVE MEMBER

JUDGEMENT

(DELIVERED BY HON'BLE SHRI I.K. RASGOTRA, MEMBER (A)

Shri P.N. Chaturvedi has filed this application under Section 19 of the Administrative Tribunals Act, 1985 as respondents have not taken any decision on his representation dated 6-1-1988 for appointment of his son on compassionate grounds.

The applicant joined the Northern Railway on 5-5-1948 as Lower Division Clerk (LDC) and retired as a Sub-Head on 31-1-1987. The applicant lost his mental balance on account of the sudden death of his eldest son on 31-8-1983 and was under treatment of a private doctor. Later he reported sick and was under treatment of the Northern Railway Central Hospital. As there was no improvement in his health till October, 1986 he requested for Medical Board. The medical examination

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was held on 21-1-1987 and the Medical Board was of the opinion that the applicant should be given a trial for a period of three months more with the medicines, vide medical certificate No.99-med/1/459 dated 13-2-1987. In the meantime, the applicant retired from service on superannuation on 31-1-1987.

2. Shri Umesh Misra, learned counsel for the applicant contended that the Medical Board should have either declared him fit for joining duty or medically decategorised him. Had the applicant been medically decategorised, he would have been entitled to get his son appointed on compassionate grounds, in terms of para 3 of Railway Board's letter No.E(NG)-III/78/RCI/I dated 30-4-1979. The relevant paragraph of the said letter reads:-

"The appointments on compassionate grounds may also be offered in cases where the employees while in service become crippled, develop serious ailments like heart diseases, cancer, etc. or otherwise become medically decategorised for the job they are holding if no alternative job with the same emoluments can be offered to them, one son/daughter should be eligible for compassionate appointment if such an employee opts to retire."

The learned counsel submitted that though mental ailment are not specifically referred to in the above paragraph, but it falls in the category of crippling diseases like heart diseases, cancer etc. In this situation the Medical Board should have decategorised the applicant. Instead the Medical Board decided to give a trial period of three months more to the applicant with more medicines vide their certificate dated 13-2-1987. It was well known that the applicant was due to retire from service on superannuation on 31-1-1987. He, therefore, urged that the applicant should be deemed to have been medically

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decategorised and that consequently the respondents be directed to consider the appointment of the son of the applicant on compassionate grounds.

3. The respondents in their written statement have submitted that the applicant applied for the employment of his son vide his application dated 30-3-1987 on compassionate grounds. On 30-4-1987 he was advised that his request cannot be acceded to. Thereafter, the applicant made a request to the Railway Minister which was turned down by the Railway Board resulting in the filing of this application in the Tribunal. The facts of the case are not disputed by the respondents. It has however been averred that the case of the applicant is not covered under the extant instructions of the Railway Board for offering his son employment on compassionate grounds as the petitioner was never declared medically invalid by the Medical Board. He retired on superannuation with all the benefits and his case has no merit for consideration.

4. We have heard the learned counsel of both the parties. The objective of the scheme of compassionate employment to provide assistance to the dependent of a Government servant to mitigate the hardship of the family left in the need of immediate assistance when a Government servant dies in harness and when there is no other earning member in his family. The assistance is also provided in exceptional cases, when the department is satisfied that the condition of the family is indigent and is in great distress, to a son/daughter/near relative of such a Government servant who retired on medical grounds under Rule 38 of CCS Pension Rules, 1972 or

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corresponding provisions in the Civil Services Regulations before attaining the age of 55 years. The compassionate appointments can be made against only direct recruitment quota. Thus, unlike the SC/ST, Exservicemen and physically handicap persons there is no specific quota for compassionate appointment. The scheme of compassionate appointment was conceived as far back as 1958 when there were hardly any welfare measures in the Govt. service. Since then the Central Govt. has instituted several welfare/social security measures like encashment of leave subject to a maximum of 240 days, improved pension/family pension, Central Employees Group Insurance Scheme etc. A selective approach has therefore to be made while considering such appointments being made on compassionate grounds. In the present case the claim of the applicant is based on paragraph 3 of the Railway Board's letter dated 30-4-1979; the relevant provision in their instruction can however be used only when a medically decategorised employee opts to retire. In this case such an option did not arise as the Medical Board was held only towards the end of 1986 when the employee was due to retire at the end of January, 1987. The Railway Board letter also lays down the order of priority in which compassionate appointments are to be made. The priority order is:-

- a) dependent of employee who dies or are permanently crippled in the course of duty.
- b) dependents of employee who dies in harness as a result of railway accident when on duty.
- c) dependents of employee who dies in service or are medically incapacitated.


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Thus the priority of the son of the applicant in this case is perhaps in the lowest category. Even this is doubtful as his ailment did not arise from his employment. Further it is not for us to anticipate eventual finding of the Medical Board had the applicant not retired on superannuation on 31-1-1987.

5. Be that as it may the fact of the matter is that the applicant had retired on superannuation on 31-1-1987 with all his retirement benefits e.g. pension, DCRG. etc. We are therefore not inclined to interfere in this matter on purely hypothetical grounds. Even paragraph 3 of the Railway Board letter relied upon by the applicant, visualises the situation where an employee opts to retire on medical decategorisation. This means that there has to be some span of service still ahead of the employee at the time of the medical decategorisation. Besides the ailment of the applicant did not relate to his duties and responsibilities arising from his service.

In the facts and circumstances of the case as above, we do not consider it a fit case meriting our intervention. The same is accordingly dismissed with no orders as to costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A) 28/9/1990

T.S. Oberoi
(T.S. OBEROI)
MEMBER (J) 28/9/1990