

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * *

O.A. NO. 1117/91

26.02.1992

SHRI KASTURI LAL

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SH.E.S. MAINEE

FOR THE RESPONDENTS

...SH.B.K. AGGARWAL

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant, Kasturi Lal has been in service of the Railways as a Pointsman since 17.12.53 and during the course of employment was promoted to the post of Leverman and finally as Cabinman. The applicant has sought premature retirement which was granted to him w.e.f. 27.3.85/7.4.85. The reason, according to the applicant, for seeking premature retirement has been that as a dutyfull servant being posted as Cabinman, he has to perform duties for even 12 hours or so with the result that he could not maintain ^{good health} and continued to remain in ill health which necessitated him for his survival to approach the respondents for premature retirement. Before he was granted premature retirement, the applicant had prayed by

...2...

written request dt.1.8.84 that he has got a son about 70 years of age, who is out of employment and be given an employment. In this application, the prayer is that the respondents be directed to give appointment to the son of the applicant on compassionate ground.

The respondents contested the application and stated that the applicant is not covered by the circular of the Railway Board dt.7.4.83 wherein the guideline and instructions for compassionate appointment have been laid down. The necessary instructions are in paras I (iv) and II. In fact, the whole of the circular deals with all permutations and combinations which may arise in dealing with the persons coming within the purview of compassionate appointment.

I have given a careful consideration to the arguments of the learned counsel for the applicant, who besides being more pathetic and assertive has also referred to the fact that the case of the son of the applicant was also referred for consideration in the letter of retirement dt.27.3.85 (Annexure A3).

The magnanimity and mercy may be on the side of the applicant, but a proposition of law cannot be set down simply on the ground that a Government servant while in service could not enjoy proper health till he could attain

le

...3...

the age of superannuation and had to seek premature retirement. There are specific rules in the Railway itself where a person who finds that he is medically unfit for a particular job, may be decategorised for any other suitable job of the same category or even one step below.

It is not that the case may not be genuine, but still the cases are ^{Camouflaged &} ~~come out flash~~ to look like genuine. In view of this, I do not find that the present application is covered under compassionate appointment.

The learned counsel for the applicant also submitted that the respondents be directed to consider the case of the applicant. The learned counsel for the respondents had pointed out that already the waiting list of those who had one time worked as casual labours, is not exhausted and further also referred to the letter of the Divisional Railway Manager, New Delhi dt. August, 1989 wherein it is written that no new faces are being taken as casual labours, waterman as per Extant orders. In view of this fact, it shall not be fair to direct the respondents to consider the case of the applicant's son on this count.

In view of this, the present application has no force and is dismissed leaving the parties to bear their own costs.

AKS

J.P. Sharma
(J.P. SHARMA)
MEMBER (J)
26.02.1992