

12

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA 2057/2004
MA 700/2005**

New Delhi, this the 26th day of September, 2005

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Narendra Kumar Singh
Aged about 22 years
Son of late Smt. Shakuntala
Kumari Ex-Clerk, N. Rly. Tundla,
Resident of Vill. Sailai,
Post Firozabad, Distt. Firozabad, (U.P.)

Thro': H. P. Chakravorti &
G. K. Sinha, Advocates
CAT Bar Room,
P/Bench, New Delhi.Applicant.

(By Advocate Shri H.P. Chakravorti)

VERSUS

1. Union of India thro'
The Chairman, Railway Board
Ex-Officio Principal Secretary,
Govt. of India, Railway Ministry,
Rail Bhawan, New Delhi.
2. The General Manager,
Northern Railway,
Baroda House, New Delhi.
3. The General Manager,
North Central Railway,
Allahabad.
4. The Divisional Railway Manager,
North Central Railway, Allahabad.Respondents.

(By Advocate Shri Rajender Khatter)

O R D E R (ORAL)

MA 700/2005

By the present MA, applicant seeks direction to the respondents to place on record the relevant document / information including the order dated

11.9.2003 to adjudicate the issue raised in the present OA. Since the original records have been produced by the respondents, no further order is called for.

OA 2057/2004

By the present OA, applicant seeks direction to respondents to appoint him in Group-C cadre in terms of order dated 11.9.2003 (Annexure A-2) issued by the Railway Board namely Joint Director, Establishment (Pers.). He also challenges the order dated 08.6.2004 (Annexure A-1) vide which he was informed that he could not be appointed on compassionate basis, being not covered under the Rules and also that no such order dated 11.9.2003 was issued by the Railway Board.

2. The facts, which are required to be noticed, are that the applicant's mother namely Smt. Shakuntala Kumari while serving at Tundla Crew Controller's office, expired on 27.7.1996 leaving the applicant and one daughter, who were minor at that time. The applicant, on attaining the majority, applied for compassionate appointment which has been denied by the respondents stating that his case was not covered by the Railway Board's letter dated 02.06.1997, being the RBE No.76/97. Shri H.P. Chakrovorty, learned counsel appearing on behalf of applicant contends that none of the authorities have considered the said circular in its true spirit. It is contended that the said circular, in fact, had been the clarification to the earlier circular dated 12.9.1990 issued by the Railway Board on the subject of appointment on compassionate ground in the event of death of husband and wife when both are Railway employees. Vide aforesaid OM dated 12.09.1990, "the compassionate appointment is admissible in case of death of mother or father, subject to the stipulation that only one compassionate appointment will be available either on the death of husband or wife whichever event occurs first." It is contended that earlier such appointment was admissible only on the ground of death of the husband employees and not on account of

death of wife. It is further contended that Railway Board vide aforesaid letter dated 11.9.2003 had issued direction to General Manager (P), Northern Railway, New Delhi to grant compassionate appointment to the applicant "as a special case."

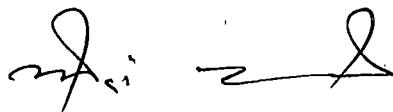
3. The respondents contested the applicant's claim and stated that at the time of death of applicant's mother, the father of the applicant had been alive and still remains alive and was serving in the State Government and as such it cannot be stated that the whole family including the applicant was dependant on the mother. The request of the applicant's father namely Shri Tika Ram for registration of applicant's name in minor register was rejected vide communication dated 22.11.1996 (Annexure R-1). Further more, subsequently another communication was issued to the applicant's father on 08.6.1999. As far as the communication dated 11.9.2003 as allegedly issued by the Railway Board is concerned, it is contended that author of the said communication vide letter dated 24.11.2003 denied the existence of such a document. Shri Rajender Khatter, learned counsel appearing on behalf of respondents produced the said letter in original to indicate that the Railway Board had conducted an enquiry on the said letter dated 11.9.2003, and came to the conclusion that "the same is fake one and no such letter was issued from this office including the contents of the letter and also the signature are false and fabricated." Vide the aforesaid communication it was also observed that, if required, a complaint of fraud be lodged with civil authorities by way of First Information Report immediately at their end.

4. Upon hearing the learned counsel for both parties and on perusal of the records placed before me, I find that the applicant was informed on more than one occasion about the rejection of his claim beginning from the year 1997,

which stand has been reiterated by the respondents on more than one occasion. I may note at this stage that the applicant has not challenged the said communication and rather has chosen to attack only the last communication dated 08.6.2004, vide which his request was again rejected. Vide the aforesaid impugned communication, the applicant was informed that Railway Board's letter dated 02.6.1997 was applicable from the date of its issue and since the death in question occurred prior to the said date i.e. on 27.7.1996, the said circular would be inapplicable in the facts and circumstances of the present case. I find substance and justification in the said contention. It is not disputed that the applicant's father is working with the State Government.

5. The object of compassionate appointment is to tide over the financial emergency in which the family is placed because of the death of the deceased at that point of time. Since the applicant's father continues to be a Government Servant in the State Government it cannot be said that the applicant was in penury condition and therefore he could not claim compassionate appointment as a matter of right. It has been repeatedly observed by the Hon'ble Supreme Court that compassionate appointment is not a source of appointment but at the best one can seek only consideration under the Rules. The Railway Board's letter dated 02.6.1997 only enables the applicant to get him considered and did not vest him any legal right to appointment. This aspect, in my considered view, has been considered by the respondents and rightly could not be acceded to. I find no illegality, arbitrariness etc. in rejecting such request. As far as the OM communication dated 11.9.2003 is concerned, since the author of the said letter himself has come out in specific that the letter is fake and no such letter was issued, the applicant cannot be allowed to take the advantage of such communication particularly when respondents also come out with a plea that, if necessary, FIR be lodged on the said aspect.

6. Finding no merit in the present application, OA is dismissed. No costs.


(Mukesh Kumar Gupta)
Member (J)

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