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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 2474/1992

New Delhi, this 5th July, 1994

Shri C.J. Roy, Hon'ble Member(J)

1. Shri Pota Ram, s/o Shri Munshi  
2. Shri Ashwani Kumar  
s/o Shri Anand Kumar  
r/o Village Samli  
dt. Muzefernagar, UP .. Applicant

By Advocate Shri V.P. Sharma

Versus

Union of India, through

1. The General Manager  
Northern Railway, Baroda House  
New Delhi  
  
2. The Secretary,  
Rly. Board, Rail Bhawan, N.Delhi  
  
3. The Dvl. Railway Manager  
Northern Rly, New Delhi  
  
4. The Dy. Chief Personnel Officer  
(Construction)  
Northern Railway, Kashmere Gate  
Delhi

-- Respondents

By Advocate Shri Shyam Moorjani

ORDER (oral)

Heard the counsel for the parties. This OA is filed against the order dated 8.5.92 denying compassionate appointment to Applicant No.2, who is the grand-son of applicant No.1 and also claimed to be one of the co-partners of the joint Hindu family. It is further claimed that their agricultural land was acquired by the Railway administration with the result they have become displaced and there is no source of income whatsoever. The appeal of Applicant No.1 for compassionate appointment in respect of Applicant No.2 was rejected on the ground that neither the applicant No.2 is the son of displaced person nor he applied for appointment within the period of two years of acquisition of land, i.e. upto 19.11.80. Hence this OA for quashing the

impugned order dated 8.5.92 and for giving appointment on compassionate ground to applicant No.2 against any Group C post.

2. The respondents by their counter have denied the claim made by the applicants inter-alia stating that the applicants themselves have admitted that compensation for the land acquired by the Railways had been paid to them and when the land was acquired in 1980, the applicant made the representation only in 1990, instead of stipulated period of two years. They say that the representation of applicant No.1 was rightly rejected for the reasons that applicant No.2 is not the son of applicant No.1, the displaced person, and that the same was not made within a period of two years from the date of acquisition of land.

3. One can not, otherwise, claim compassionate appointment as a matter of right. Also it is not the case of the applicant who is in indigent circumstances. However, Railway Board's notification No.E(NG)II-82/RCI/95 dated 22.3.1985 reads as under:

<u>Clarification sought</u>	<u>Ministry's decision</u>
In case the property belongs to Hindu Undivided family whether per family only one member belonging to the undivided family will be offered job on preferential basis	Only one member

According to Hindu Law of Mithakshara School, a child in the womb is also entitled for a share in the property. Therefore, the grand-son is the co-partner of the Hindu undivided family. The land was acquired in 1980 and the representation was made in 1990. Even though it is delayed, in the interest of justice I condone the delay and without quoting this as a precedent, after hearing both the parties and perusing the records, I intend giving

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the following direction to the respondents.

4. The respondents are directed to reconsider the case of the applicant, on his showing the proof that he belongs to co-partner of the family of which the property was acquired by the government, in accordance with the Rules, and pass a speaking order within two months thereafter.

The OA is thus disposed of. No costs.

*W.S.R.*  
(C.J. Roy)  
Member (J)

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