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Central Administrative Tribunal
Principal Bench, New Delhi.

O. A. No. 1696/93

New Delhi this the 22nd Day of March, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Shri Kripal Singh,
Retd. Driver (Goods),
R/o 383/5-B, I, East
Azad Nagar, Shahdra,
Delhi-32.

Applicant

(Through advocate Sh. R.K. Kamal)

versus

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Rail Manager,
Northern Railway,
Moradabad (UP).

ORDER (ORAL)

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Heard the learned counsel for the parties. The two issues raised in this O.A. are (a) whether the applicant who retired after his medical de-categorisation from the railway can be said to have been offered an equivalent alternative job which he refused and (b) whether the leave of the kind ^{other than} ~~due~~ could also include ~~leave~~ leave on average pay at his credit at the time of his retirement.

The applicat~~t~~ had earlier come to this Tribunal in OA-1638/92 decided on 11.12.1992. He was working as a Driver (Goods) in the Northern Railway and was medically decategorised on 24.9.1990. He was offered an alternative job of a School Teacher,
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Shedman and ultimately that of Assistant Superintendent. In the judgement dated 11.12.1992, this Tribunal held that these jobs were not suitable and the order dated 25.3.1991 offering him an alternative job of Asstt. Superintendent was quashed.

The respondents have contended that in terms of Railway Board Circular dated 28.2.1986, that appointment on compassionate grounds can be offered where a railway employee becomes medically decategorised for the job he is holding and no alternative job with the same emoluments can be offered to him. In cases, where, on being medically decategorised, a railway employee is offered alternative employment on the same emoluments but the same is not accepted by him and he chooses to retire from service, compassionate appointment of an eligible ward of the employee, if so requested by him, can be considered at the discretion of the competent authority, provided that if the employee has less than three years of service before superannuation at the time the decision is taken, personal approval of the General Manager has to be obtained before the offer of appointment on compassionate grounds is made. It is clear that in supersession of earlier order, the last offer of alternative appointment was given to the applicant on 25.3.91.

We agree with the contention of the learned counsel for the applicant that this order having been quashed by the Tribunal vide their order dt.11.12.92, there is no valid offer of alternative appointment in the ^{eye} of law. The applicant's ward is, therefore, entitled to be considered for compassionate appointment

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as in cases of those employees who were forced to retire and were not offered alternative employment.

As regards the second issue, the learned counsel for the applicant has fairly stated at the Bar that he does not press for this.

The application is disposed of with the following directions:-

- (a) The respondents shall consider the case of the son of the applicant for compassionate appointment in any group-C job, commensurate with his qualifications, on the basis that his father could not be offered an equivalent job and was forced to retire;
- (b) These orders shall be implemented by the respondents within a period of three months from the date of communication of this order.
- (c) There shall be no order as to costs.

/vv/

B. N. Dhoundiyal
(B. N. DHOUNDIYAL)
MEMBER (A)