

CENTRAL ADMINISTRATIVE TRIBUNAL: ALLAHABAD BENCH ALLAHABAD

ORIGINAL APPLICATION NO. 304 of 1996. (ALLAHABAD)

~~Allahabad~~ this the 30th day of July 1998.

HON. MR. D.C. VERMA, MEMBER (J)

SMT. BHAGMANIYA widow of Anguno
R/o Village-Siri Etara Bazar, District-Kanpur(Dehat).

..Applicant

Versus

1. Union of India - through -
Secretary, Ministry of Railway, Rail Bhawan,
New Delhi.
2. Divisional Railway Manager,
Central Railway, Jhansi.
3. Assistant Engineer,
Central Railway, Kanpur.
4. Pathway Inspector,
Central Railway, Jhuhi, District Kanpur.

..Respondents

For applicant: Sri S. Mandhyan, Adv.

For respondents: Sri G.P. Agrawal, Adv.

ORDER

Late Anguno, husband of the applicant Smt. Bhagmaniya, was working as Gangman in the Central Railway. Anguno expired on 30.10.1975 in the Central Railway Hospital, Jhansi. On an application for appointment on compassionate ground, applicant Smt. Bhagmaniya was appointed as a Waterwoman in April 1984 and continued to work as such till April 1991. Applicant was granted temporary status w.e.f. 14.4.86 ~~by means of~~ ^{under} order dated 8.1.88 (annexure-2 to the O.A.). Since April 1991 applicant was not given any work. On 30.10.91 (copy annexure-3) applicant sent a representation that as her son has become major, he be given appointment on compassionate ground. Reminder was sent on 20.4.93 (annexure-4). As the respondents granted no relief, the petitioner has filed this O.A.

2. It is admitted to the respondents that the applicant was given appointment on compassionate ground as a Waterwoman, but since appointment of Waterman ~~have been~~ ^{were} banned, the applicant could not be engaged.
3. Heard learned counsel for the parties.
4. Once appointment on compassionate ground was given to the applicant, claim of her son for appointment on compassionate ground cannot be considered. Appointment on compassionate

ground is given to meet financial constraints, which arise due to sudden death of an employee. Appointment on compassionate ground is not a general rule of procedure for appointment. It is only an exception. Appointment to a ~~other~~ service is always through open competition as may be provided under the relevant Recruitment Rules. Thus, if appointment to the applicant was given on compassionate ground to meet certain situation, her son, on becoming major cannot claim appointment on compassionate grounds under dying in harness rules. The claim of the applicant, therefore, has no merit.

5. The other claim of the applicant is that the applicant was granted temporary status and therefore, her services could not have been dispensed with and she be treated continuing in service.

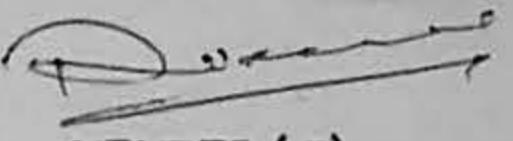
6. A casual labour is engaged each day in the morning and is dis-engaged in the evening unless he is a part-time casual labour. Admittedly, the applicant was only a Waterwoman and was appointed on seasonal basis for four months in a year. Once a policy decision was taken and appointment of Waterwoman was banned, the applicant could not have been appointed or allowed to continue in relaxation of the said appointment ban.

7. The applicant was granted temporary status w.e.f. 14.4.86. In her representation dated 28.8.86(annexure SA-2) she mentioned that though she was not regularised, her colleagues have been considered. It is not the case of the applicant or that anybody junior to the applicant has been engaged/regularised

8. Learned counsel for the applicant has, however, placed reliance on the decision of the Allahabad High Court in the case of Pramod Kumar Misra versus Committee of Management & others decided on 24.1.1994 reported in 1994 H.V.D.(Allahabad) Vol.2 page 18. That decision was given by the Hon'ble High Court on the basis of the decision of the

Apex Court in the case of Sushma Gosain and others versus Union of India reported in AIR 1989 S.C. 1976. In view of subsequent decision of the Apex Court such as Umesh Kumar Nagpal versus State of Haryana ((1994 SCC (L & S) page 934), no direction can be given to create a supernumerary post to appoint the applicant in absence of vacancy. In view of this, the applicant is not entitled to the relief claimed. However, as the ~~respondent~~ applicant was granted temporary status in April 1986, the respondents are directed to consider her claim for engagement or regularisation in case any person junior to the applicant was subsequently engaged or regularised.

9. In the light of the above, the O.A. is decided accordingly. Cost easy.



MEMBER (J)

Dated: Lucknow: , 1998.

Narendra/-