

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 25th day of May, 2001

Coram: Hon'ble Mr. Rafiq Uddin, JM

ORIGINAL APPLICATION NO. 631 OF 1996

Smt. Jhuna Devi,
w/o Natha
r/o Basila PO Chandauli,
District Varanasi.

. Applicant

(By Advocate: Sri S.K. Dey)

Versus

1. Union of India, through the General Manager,
E. Rly. Calcutta.
2. The Divisional Railway Manager,
E. Rly. Moghalsarai.
3. The Chief Medical Superintendent,
E. Rly. B.R. Singh Hospital Sealdah,
Calcutta.

. Respondents

(By Advocate: Sri A.K. Gaur)

O R D E R (ORAL)

(By Hon'ble Mr. Rafiq Uddin, JM)

The applicant is ^{the} wife of Sri Natha, who was working as Gangman. The applicant has filed this O.A. seeking directions to the Respondents to appoint her son on compassionate ground in *Railway Department*

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2. The case of the applicant is that her husband became ill on 20.8.92 and was treated in Eastern Railway Hospital Moghalsarai and Eastern Railway Hospital B.R. Singh Sealdah, Calcutta. It is claimed that her husband was declared medically unfit by the Mental Hospital, Ranchi, vide certificate dated 20.9.93. Thereafter, the case of the husband was referred to the Chief Medical Superintendent, Eastern Railway B.R. Singh Hospital Sealdah Calcutta for further treatment. Dr. K. C. Mandal, Divisional Medical Officer, Eastern Railway, Calcutta declared her husband unfit for service, vide letter dated 25.9.93 (Annexure No. A-2). The Senior Divisional Medical Officer, Sealdah vide his letter dated 29.6.94 (Annexure No. A-3) addressed to the Medical Superintendent Eastern Railway, Moghalsarai informed that the husband of the applicant was still unfit to do his duty due to mental instability and his case was fit to be referred to the West Bengal Psychiatric Board for consideration of permanent unfitness. The applicant claims that due to the mental disease, her husband became unfit for service and the respondents in order to deprive him of the benefit of unfitness did not declare him unfit, so that he could retire from Railway service in normal course.

3. The case of the respondents in the counter affidavit is that the applicant's husband was not formally declared medically unfit and since the service of the applicant's husband was only for three months from retirement, the case was referred to the Director, Health Services, Government of

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West Bengal, Calcutta in terms of para 529 of Indian Railway Medical Manual. Since the husband of the applicant was not declared medically unfit, hence no permission was accorded to appoint Medical Board. It is evident from the perusal of the counter affidavit that when the permission was sought by Medical Superintendent, Eastern Railway, Moghalsarai vide his letter dated 21.2.94 from Chief Medical Officer, Eastern Railway Calcutta, the letter ordered for de-categorisation of Natha. It is also admitted that the case of the applicant was referred to the Director, Health Services, Government of West Bengal, Calcutta for his fitness in terms of Railway Board's letter dated 27.6.90 under para 529 of Indian Railway Medical Manual. But it is not made clear by the Respondents as to what the report was submitted by the Director of Health Services, Govt. of West Bengal on this letter and it is merely stated that Sri Natha was not declared medically unfit. The case of the Respondents is vague and not clear. It is, on the other hand, clearly established that the Senior Divisional Medical Officer (Psychiatry) Eastern Railway Sealdah vide his letter dated 29.6.94 clearly found that the applicant's husband ~~was~~ unfit for his duties for his mental instability. It is not made clear by the respondents as to why the case of the applicant's husband was not referred to the Director of Health Services, Government of West Bengal even when a senior Medical Officer of Eastern Railway of Psychiatry Department had found mental condition of the applicant's husband instable

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and not fit for doing his job. I find force in the arguments of the learned counsel for the applicant that the delay was caused due to the administrative lapses and carelessness on part of the officials of the respondents in getting the case of the applicant's husband referred to the competent authority obtaining certificate, regarding mental health of the husband of the applicant. This Tribunal vide order dated 27.11.97 passed in OA No.1784 of 1994 on the basis of ^{identical} ~~adequate~~ facts had observed that "However, it is clear from the history of this case and the advice of the first medical board that the applicant had taken ill on 28.11.92 and could not join his duties till the date of his superannuation in view of the averment of the applicant that her husband remained unpaid since 25.11.92 and of the respondents that the period was treated as leave. If it was not clear on 25.11.92 whether the applicant should be decategorised or not, it was clear on 10.5.94 and the ground of superannuation to be less than one year away seems to have been taken to deny the decategorisation to applicant's husband which in this case was fully justified." and "directed the Respondents to consider the applicant's husband for decategorisation on ex post facto basis with effect from 10.5.94 and consider the case of the applicant's son for compassionate appointment as per rules."

4. I also agree with the view expressed in the above case and direct the respondents to consider

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the case of the applicant's husband for the decategorisation on the basis of the report dated 25.6.94 when the Senior Divisional Medical Officer, Psychiatry, Eastern Railway, Sealdah recommended the name of the husband of the applicant for consideration for permanent unfitness.

Thereafter the respondents are also directed to consider the case of the appointment of the son of the applicant on compassionate ground as per rules and instructions. No order as to costs.

Rafiq Uddin
(RAFIQ UDDIN)

JUDICIAL MEMBER.

Nath/