

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 18th day of August 2000.

Original Application No.1336 of 1997

C O R A M:-

Hon'ble Mr. S. Biswas, Member (A)

Suhel Ahmad Ansari, S/o late Niyaz Ahmad Ansari  
R/o Mohalla, Kunjal Geer Bagh  
P.O. Lal Diggie , P.S. Kotwali Sadar  
Distt. Mirzapur.

.....Applicant.

Counsel for the appplicant :- Sri R.S. Ojha.

V E R S U S

1. Union of India  
through G.M. Eastern Railway  
Head Quarters Office, Farilee place  
17, Netaji Subhash Road  
Calcutta-1 (W.B.)

2. The Divisional Rly Manager  
(Engg) Electric, D.E.E. Office  
T.R.S. , Mughalsarai, E. Rly.

.....Respondents.

Counsel for the respondents:- Sri A.V. Srivastava.

O R D E R

(By Hon' Mr. S. Biswas, A.M.)

The applicant has impugned the order dt.  
09.10.1996 rejecting the representation of the  
applicant, son of the deceased railway employee  
N.A. Ansari and seeks a direction to thr respondents  
for compassionate appointment. He also seeks that the  
order dt. 09.10.1996 be quashed.

2. The undisputed fact in this case is that late N.A. Ansari railway employee ~~was~~ availed unauthorised leave for the period 28.02.83 to 05.11.85 for which he had no authorised certificate of medical treatment. The authorities removed him from service without enquiry vide order Dt. 05.11.85 and the applicant since then expired on 16.10.92 but later on the respondents had on humanitarian consideration expunged the order of removal Dt. 05.11.85 vide their order dated 06.07.93 ( all these referances have annexed to the application ). After quashing the order of removal vide annexure-7, the pensionary benifits were given to the widow w.e.f. 17.10.92. The widow of the deceased railway employee had made an application for compassionate appointment for her son and in this connection, she was asked to submit the requisite informetion vide annexure A-6 and the applicant was asked to appear for necessary test vide order Dt. 28.03.85 (Annexure-5).

3. Learned counsel for the respondents submits that the applicant was actually removed from the service but re-instated<sup>SR</sup> after considering the humanitarian back ground of the case. The respondents did not think it necessary to extend the humanitarian consideration for compassionate appointment of her son whose name is Suhel Ahmad Ansari. The full particulars of his son named as S.A. Ansari has not been available in the files. The benifits of the gratuity have already been granted. The applicant expired in the year 1992 and he was removed in the year 1985 from service. Hence the application for compassionate appointment was rejected on <sup>Valid</sup> ~~unauthorised~~ grounds.

SR

4. I am not able to agree with the submission of the respondents. The deceased employee was removed from service but he stood notionally re-instated after the revocation of the order of the removal and thereafter the question of his removal is no longer relevant. The original application <sup>was</sup> ~~can not be~~ <sup>wrongly</sup> rejected <sup>SM</sup> on the ground that his father was removed but re-instated after his death on humanitarian consideration. It would be wrong to say that the family did not deserve compassionate appointment on compassionate ground. Since the deceased employee expired before his due date of retirement, a case of compassionate appointment has been made out. The employee was due to retire in normal course in 1993 but he expired on 16.10.1992. These dates are relevant for consideration of compassionate appointment now that the removal order stands expugned.

5. From the <sup>records</sup> this much is clear that no other applicant has filed any application for compassionate appointment and the application was supported by his mother of the applicant. Other details can be got verified by the respondents.

6. In the situation the original application is allowed to the following extent :-

"The quashing of the order of the removal should be treated as legal and binding on respondents to consider favourably the representation of the applicant for compassionate appointment. The applicant will resubmit a fresh representation on the basis of this order for consideration of compassionate appointment by the respondents within 12 weeks of this order as per rules"

52

::4::

6. In view of this direction, the order  
Dt. 09.11.1996 is also quashed.

No order as to costs.

*S. B. B.*

Member (A)

/Anand/