

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 603 of 1997

Allahabad this the 27th day of August 1998

Hon'ble Mr. S.K. Agrawal, Member (J)

1. Baijnath S/o Shri Chhedi Lal, R/o Vill & P.P. Mohammadpur, District Kanpur Dehat (U.P.)
2. Rajesh Kumar S/o Shri Baijnath R/o Vill. & P.O. Mohammadpur, District Kanpur Dehat U.P.

Applicants.

By Advocate Sri O.P. Gupta

Versus

1. The Union of India, through the General Manager, Central Railway, CST Mumbai.
2. The Divisional Railway Manager, Central Railway, Jhansi.

Respondents

By Advocate Sri A. Sthalekar.

O R D E R

By Hon'ble Mr. S.K. Agrawal, Jud. Member

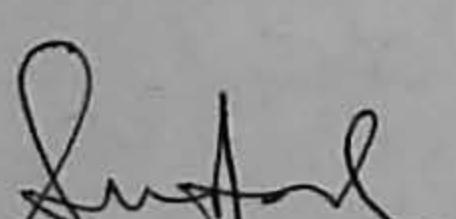
In this O.A., the prayer has been made by the applicants that the respondents be directed to consider the request of the applicant no.1 for appointment of applicant no.2 in the railways on compassionate grounds.

*Sudhakar*

2. In brief the facts of the case as stated by the applicant are that the applicant no.1 was appointed as Khalasi on 04/6/1992 in the railways and retired from the service on 30/5/95 having been declared medically unfit as he had suffered injury in his eye on duty and after treatment of two year seven months and 19 days, he was declared medically unfit. It is

submitted that applicant no.1 ought to have been declared medically unfit soon he was unfit to perform duty on 02.11.93 when he was having more than 3 years of service at his credit but he was declared medically unfit late. The applicant was not offered any alternative employment. The applicant no.1 and 2 made various representations for appointment of applicant no.2 on compassionate ground but he was replied that since he has having less than 3 years of service at his retirement, the applicant no.2 cannot be considered for appointment on compassionate ground. It is submitted that applicant no.2 will served as bread winner of the family and if his case is not considered for appointment on compassionate ground the applicant will suffered ~~for~~ irreparable injury. It is, therefore, requested that the respondents be directed to consider the request of the applicant no.1 for appointment of the applicant no.2 in railways on compassionate ground.

3. The counter-affidavit was filed by the respondents. It is submitted that the order dated 14.10.1996 rejecting the case of the petitioner no. 2 for appointment on compassionate ground is perfectly legal and valid. The petitioner no.1 remained under sick list from 02/9/94 to 19/4/95. He was declared medically unfit for all classes on 30/5/95 vide Chief Medical Superintendent, Central Railway, Jhansi's certificate dated 30/5/95. The petitioner no.1 was served charge-sheet for a major penalty. Since he was declared medically unfit for all classes on 30/5/95, the disciplinary authority decided to withdraw the above charge-sheet. The petitioner no.1 applied for compassionate appointment to his son Sri Rakesh Kumar on 15/9/95, which was rejected by the impugned order dated 14.10.1996, therefore, the applicants are not entitled to any relief sought for and the application is liable to be dismissed with cost.

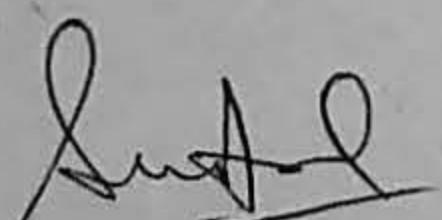


4. The rejoinder has also been filed. In the rejoinder, it was reiterated that the applicant no.1 was unfit for performing the duty on 02/11/1993, therefore, he should have been declared unfit w.e.f. 02/11/1993 and there is noone except Rajesh Kumar-applicant no.2 to serve the applicant no.1. The condition of the applicant's family is not good.

5. Heard, the learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record.

6. It is submitted by the learned lawyer for the applicant during the course of arguments that by impugned order dated 14.10.96, the prayer of the applicant was rejected without any legal and valid basis.

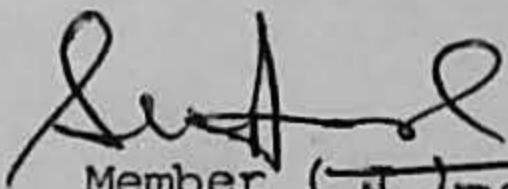
7. As per Railway Board's letter no.CON/883/R/IV, dated 22/6/1988 , it has been made clear that all cases of appointment on compassionate grounds (whether that of wife, son, daughter etc) should be referred to headquarter where the railway servant is medically unfitted/decategorised after attaining the age of 55 years. Such appointments should therefore, not be made locally under the powers of D.R.M.s etc. and should be referred to C.P.O. for personal orders of the General Manager but, the impugned order dated 14.10.1996 was issued by Sri J.P. Upreti for D.R.M.(Karmik) Central Railway, Jhansi. As per the above instructions, the matter should have been referred to General Manager for taking final decision but it appears that the instructions issued by the Headquarter in this regard have not been complied with.



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8. Therefore, this O.A. is allowed and respondent no.1 is directed to consider the case of the applicant no.2 for appointment on compassionate ground in view of the Railway Board's circular no.CON/883/R/IV, dated 22/6/1988, within the period of 3 months from the date of receipt of copy of this order.

9. No order as to costs.

  
Member (S) 27/8/88

/M.M./