

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1649 of 2001

Allahabad this the 17<sup>th</sup> day of ~~November~~<sup>December</sup>, 2002

Hon'ble Mr.A.K. Bhatnagar, Member (J)

Bihari Lal, Son of Sadhoo Madho, resident of Village Baripal, Tehsil Ghatampur, District Kanpur Dehat.

Applicant

By Advocate Shri Satish Mandhyan

Versus

1. Union of India through General Manager, Central Railway, Mumbai.
2. Divisional Railway Manager(Personal), Central Railway, Jhansi.
3. Medical Superintendent, Central Railway, Jhansi.

Respondents

By Advocate Shri K.P. Singh

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 with a prayer to quash the order dated 29.06.2001 communicated by covering letter dated 10/11.07.2001, and to direct the respondents to consider the case of the applicant for compassionate appointment on class IVth post.

:: 2 ::

2. The brief facts giving rise to this O.A. are that the father of the applicant Shri Sadhoo Madho whose date of birth was 01.05.35, was taken on the roll of the Central Railway on 02.07.64 as Gateman. He was operated upon for cataract in his eyes, but could not recover total vision, so he was put to medical examination, and was declared unfit for service on 17.04.94. Ultimately he was medically decategorised and settled up on 06.10.95. The applicant moved an application on 25.11.95, which was rejected vide order dated 25.06.97. Aggrieved by the same, the applicant filed an O.A. No. 738/98, which was dismissed as withdrawn, with liberty to file appeal. After obtaining the order, the applicant filed an appeal on 01.12.2000, which was also rejected and communicated to the applicant vide covering letter dated 10/11-7-2001. Hence this O.A.

3. The respondents have contested the case and filed counter-affidavit. Stressing on the points given in the counter-affidavit, learned counsel for the respondents has asserted that the appeal filed by the applicant was considered with a detailed and speaking order. The respondents have further contended that the actual date of medical examination is 17.5.94 and the General Manager being the competent authority has taken final decision in the matter by passing the impugned order dated 29.06.2001.

4. I have heard the learned counsel for the parties and perused the record.

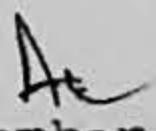
....pg3/-

5. After due perusal of the pleadings, the date of medical decategorisation appears to be doubtful, as stated by the respondents. The applicant has annexed as annexure A-3, the order of medical examination dated 17.04.94. It contains no cutting and appears to have been given to the applicant. However, from the next annexure i.e. annexure A-4, which is the same order as that of annexure A-3, the interpolation of marking 19.5.94 beneath 17.04.94 can easily be find out. The writing and number of the medical certificate is absolutely similar to that of annexure A-3. Further in the counter-affidavit, the date of medical decategorisation has been given as 17.5.94. Therefore, the contradiction has been created by the respondents by their own records. The certificate annexed as annexure A-3 appears to be correct. The possibility of interpolation cannot be ruled out, as it was very easy to add new date. It is also noteworthy that taking 17.4.94 as the date of medical decategorisation, the applicant gets entitlement of appointment on compassionate ground as more than 3 years would be left to the retirement of his father on his medical decategorisation and if it is either 17.05.94 or 19.05.94, his claim stands negated. The version of the department also appears to be incorrect as everywhere they have notified 17.5.1994 as date of medical examination whereas certificate annexure A-4 mentions date of 19.05.94, which too appears to have been interpolated. Therefore, certificate annexed alongwith the counter affidavit, does not enthuse the confidence.

:: 4 ::

6. Apart from the above, the reasons assigned in the impugned order is that the daughter of the decategorised employee has married, hence the responsibility of the employee is over, and hence rejected the claim. It is stated that the applicant's father is almost blind, hence requires assistance for any movement, for which he needs applicant's support. However, in my view by marriage of his son, the responsibility of decategorised employee has infact increased due to non-employment of the applicant.

7. In view of the discussions made above, the impugned order is not justified, which is quashed. The competent authority will consider the case of the applicant in the light of the above observations and pass appropriate order within a period of 3 months from the service of the copy of this order. The O.A. stands disposed of accordingly. No order as to costs.

  
Member (J)

/M.M./