

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 28th November, of 2001.

Q U O R U M :- Hon'ble Mr. C.S. Chadha, Member- A.

Orginal Application No. 1125 of 2001.

Manoj Kumar Srivastava S/o Late Ramesh Chandra Srivastava
R/o 935- G. Krishna Nagar, Gorakhpur.

.....Applicant

Counsel for the applicant :- Sri O.P. Khare

V E R S U S

1. Union of India through the Secretary and the Chairman, Railway Board, New Delhi.
2. General Manager, North Eastern Railway, Gorakhpur.
3. Chief Commercial Manager, North Eastern Railway, Gorakhpur.

.....Respondents

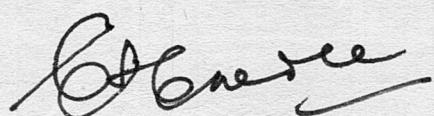
Counsel for the respondents :- Sri K.P. Singh

O R D E R (Oral)

(By Hon'ble Mr. C.S. Chadha, Member- A.)

This O.A has been filed under section 19 of the
Administrative Tribunals Act, 1985.

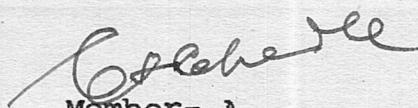
2. Learned counsel for the applicant states that this Tribunal in O.A No. 933/98 passed an order dated 27.02.01 directing the respondents to consider the case of the applicant for compassionate appointment in the light of the decision of the Patna Bench of this Tribunal in O.A No. 433/96 dated 05.04.1999 in which it was held that there is



no bar on applying for compassionate appointment if the concerned person dies immediately before the retirement. On the receipt of this order of the Tribunal, the department passed a speaking order on 17.05.2001 (annexure-A- 2) wherein a differentiation has been made between the circumstances of the case decided by the Patna Bench and the circumstances of this case. It was claimed that that in the case decided by the Patna Bench, the person concerned died one day before his retirement. Against this, it was brought to the notice of the court that in the case decided by the judgment of the Patna Bench of this Tribunal, in fact, the concerned person met with an accident the day before his retirement but died 13 days later. It really does not matter as to when the person concerned died because the issue is not whether an application can be made if the death had occurred immediately before or after superannuation as the claim of the applicant was that his father was ~~incapacitated~~ during service and, therefore, an appointment should have been given to him instead of his father on compassionate grounds. Against this, learned counsel for the respondents has stated that the father of the applicant died after several months after the retirement and was not declared ~~incapacitated~~ while in service. Compassionate appointment can be granted in two major circumstances. Firstly, if the father of the applicant is ~~incapacitated~~ during service and, therefore, is unable to earn for the family, ^{if} Secondly, ~~if~~ he dies prematurely leaving behind the family in an indigent condition. In the circumstances of this case, in my opinion, the decision of the department needs no interference as both these conditions do not apply in the case. The OA is accordingly dismissed.

3. There shall be no order as to costs.

/Anand/


Member- A.