

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

Original Application No. 1181 of 2001.

this the 10th day of May'2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Binay Kumar Tripathi, S/o Sri Girija Shanker Tiwari,
R/o 174 Ward no.16, Raghav Nagar (near State Bank)
District Deoria.

Applicant.

By Advocate : Sri V.K. Srivastava.

Versus.

1. Union of India through General Manager, N.E.R., Gorakhpur.
 2. Divisional Railway Manager, N.E.R., Varanasi.
 3. Sr. Divisional personnel Officer, N.E.R., Varanasi.
 4. Chief personnel Officer (Admn.), N.E.R., Gorakhpur.
 5. Divisional Commercial Manager, N.E.R., Varanasi.
 6. Chief Medical Supdt., N.E.R., Varanasi.
- Respondents.

By Advocate : Sri Anil Kumar.

O R D E R

The applicant- Binay Kumar Tripathi is the son of late Girija Shanker Tiwari, has approached this Tribunal for appointment in class III post on compassionate grounds.

2. The brief facts of the case are that the father of the applicant while working as Booking Clerk in N.E.R. was declared medically unfit during preodically medical check-up on 11.12.92 and was found unfit for all categories in the railway department, but he was not declared invalidated and was recommended to be kept on sick leave because he had yet to retire from the service from the

2

his declaring medically unfit and as such the applicant retired on 28.2.93. It appears that the applicant or his mother was not given appointment because in terms of the letter dated 26.6.90, no such provision exists for appointment on compassionate grounds if the invalidation falls on the last year of service of the employee and ^{also} ~~as such~~ invalidation should be terminal stage of fatal illness and massive injury with loss of both lower and upper limbs. ^{But} ~~Hence~~, these grounds were not found in the case of the applicant, he was not entitled for appointment on compassionate grounds.

3. It may be stated that earlier the applicant along-with his mother had filed O.A. no. 1150 of 1993, which was disposed of vide order dated 20.1.2000 with the direction to the respondents to consider the case of the applicant for appointment on compassionate grounds under rules in this regard and pass a reasoned order within a period of three months from the date of communication of the copy of the order. It appears that this order was passed taking into consideration the contents of the letter dated 6.1.99 of DRM (P), Varanasi, requesting the G.M. (P), N.E.R., Gorakhpur for issuing necessary direction regarding appointment on compassionate grounds to the applicant. In the present case, however, the applicant has pleaded that date of birth of his father was wrongly recorded as 26.2.35 instead of 1.2.41 as mentioned in the School Leaving Certificate of the deceased employee.

4. The respondents have passed the impugned order in compliance of the order passed by this Tribunal in which they have denied the claim of the applicant regarding incorrect date of birth of the father of the applicant.

Rn

5. I have heard the learned counsel for the parties and have perused the pleadings on record.

6. It may be stated at the outset that the applicant has not pressed the plea taken by the applicant regarding correction of date of birth of his father in his service record at this belated stage. The learned counsel for the applicant has fairly conceded that such plea cannot be raised at this stage. He, however, contends that since the DRM (P), N.E.R., Varanasi had himself written a letter to the G.M.^(P) N.E.R., Gorakhpur for proper guidance to him regarding appointment of the applicant on compassionate grounds. The learned counsel for the applicant has stated at the bar that the G.M.(P), N.E.R., Gorakhpur, has not passed any order on his letter sofar.

7. Considering the facts and circumstances of the case, the O.A. is, therefore, disposed of with the direction to the G.M.(P), N.E.R., Gorakhpur to consider and pass appropriate orders on the aforesaid letter sent by the D.R.M.[P], N.E.R., Varanasi within a period of three months from the date of communication of this order. No costs.



MEMBER (J)

GIRISH/-