

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH: ALLAHABAD.

ALLAHABAD, THIS THE ^{1st}th DAY OF Aug, 2006.

QUORUM : HON. MR. A.K. BHATNAGAR, J.M.

ORIGINAL APPLICATION NO.1262 OF 2004.

1. R.C. Tiwari, aged about 63 years, Son of, Shri Daya Ram Tiwari, Resident of, 1400, Premganj, Jhansi.
2. Sanjeev Kumar Tiwari, aged about 33 years, son of Shri R.C. Tiwari, Resident of, 1400, Premganj, Jhansi.

..... Applicants.

Counsel for applicant : Shri R.K. Nigam.

Versus

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.

..... Respondents.

Counsel for Respondents : Sri D. Awasthi.

O R D E R

HON. MR. A.K. BHATNAGAR, J.M.

By this O.A., the applicant has prayed for a direction for quashing the impugned order dated 31.10.2003 (Annexure A-1) with a further direction to the respondents to reconsider the matter in isolation of Clause 6 of the order

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dated 7.12.1998 (Annexure A-3) and to grant appointment on compassionate ground to the Applicant No.2.

2. The brief facts, as per the applicant No.1, are that he was medically ^{decalogised} ~~decalogised~~ while working as Mail Driver having put in near about 36 years of service and was settled-up finally on 23.10.1997 (Annexure A-2). He applied for compassionate appointment of his son (Applicant No.2) on 5.3.1998. The claim of the applicant for compassionate ground was rejected by the Respondents vide order dated 7.12.1998 on the ground that the applicant No.1 had less than three years service to his credit (Annexure A-3). The applicant, thereafter, moved a representation on 31.3.1999, addressed to the A.D.R.M., Central Railway, Jhansi stating therein clearly that the age of superannuation has been extended to 60 years from the age of 58 as per Government decision. Since 1.4.2003, Jhansi Division came under the jurisdiction of North Central Railway, Allahabad and a letter to this effect dated 27.5.2003 was sent to the General Manager, North Central Railway for taking necessary action in the case of compassionate appointment of the Applicant No.2 by the General Manager, Central Railway Mumbai. Finally on 31.10.2003, the Respondent No.2 rejected the claim of the applicant. Hence, he filed this present application.

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3. Pressing the grounds taken in paras 5(i) to (v) of the O.A., learned counsel for the applicant submitted that the age of superannuation of the Railway employee was increased from 58 to 60 years vide letter No.RBE-103-1998 dated 14.5.1998, therefore, the applicant had more than three years for his retirement so the action of the respondents in rejecting the claim of Applicant as mentioned in paragraph 6 of the order dated 1.12.1992 is not justified from any angle. It is further submitted that the applicant was not provided any alternative job after his decategorisation (as reiterated in para 6 of the rejoinder also). The applicant submitted that as per contents of the letter dated 27.5.2003 (Annexure A-5), the case of the applicant should have been decided by the North Central Railway, Allahabad, the newly created zone in place of Jhansi. Learned counsel for the applicant further contended that the applicant was decategorised much earlier to the date i.e. 29.4.1999 on 23.1.1997, therefore, as per the policy decision, the benefit of appointment of one son on compassionate ground should have been given to the applicant. Counsel for the applicant finally submitted that a similar O.A. No.1041/03, Vrindavan Vs. Union of India and others has been decided by this Tribunal on 7.3.2006 and the case of the applicant is fully covered by the said judgment. The applicant shall feel satisfied if his

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
case for appointment on compassionate ground is also reconsidered on the ratio of the judgment dated 7.3.2006 decided by the Tribunal. He further contended that all the circulars mentioned by the respondents' counsel have been clearly dealt with in the said judgment. The applicant has also filed M.A. No.1717/06, a copy of which has been served upon the respondents' counsel on 4.4.2006, stating the facts and reference of the O.A. and has also filed copy of the Railway Board circular dated 14.3.1998 and the judgment and order passed in O.A. No.1041/03 as Annexure-1 but no reply has been filed by the respondents. The applicant has also reiterated the facts given in the O.A. as well as the facts given in the M.A. No.1717/06 and in his rejoinder dated 3.5.2006. It has been categorically stated in the M.A. as well as in the rejoinder that no writ petition has been filed against the judgment dated 7.3.2006, passed by this Tribunal in O.A. No.1041/03.

4. Resisting the claim of the applicants, the Respondents filed their Counter reply. Learned counsel submitted that the applicant was offered an alternative job of Power Controller under A-I category but the same was refused by the applicant vide letter dated 2.9.1997 (Annexure CR-3), therefore, the respondents had no other option but to settle-up the Applicant No.1 finally. Learned counsel for the respondents

emphatically submitted that the case of the applicant was covered by the Railway Board circular dated 28.2.1986 as the age of the applicant was more than 55 years at the time of decategorisation. Moreover, he refused the alternative job provided by the respondents. Thereafter, the matter was referred to the General Manager, who in the light of Railway Board circular dated 28.2.1986, considered the case of the applicant and rejected the same vide order dated 17.10.2003 (Annexure CR-7), which was communicated to the Applicant No.2 vide letter dated 31.10.2003 (Annexure CR-8). Therefore, there is no illegality in the order passed by the competent authority and the O.A. is liable to be dismissed.

5. I have heard learned counsel for both the parties at length and perused the records available before me.

6. Without going into the other aspects of the case, it is found that no supplementary counter has been filed by the respondents against the objections raised in M.A.No.1717/06 which could establish the stand of the Respondents that as to why the judgment dated 7.3.2006, passed in O.A. No.1041/03 is not applicable in this case. Under the circumstances and after giving my anxious consideration to the arguments of the learned counsel for the parties, I am of the view that interest of justice shall better be served if



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J.M.

There will be no order as to costs.

7. Accordingly, the O.A. is finally disposed of with a liberty to the applicant to file a fresh representation along with copy of the order passed in O.A. No.1041/03 to the competent authority within a period of two weeks from the date of receipt of a copy of this order with a further direction to the competent authority/respondents to reconsider the matter and decide the same by a reasoned and speaking order within a period of three months from the date of receipt of the representation, if so filed by the applicants.

stipulated period.

the applicant is granted some time for filing a fresh representation along with the judgment and order relied upon by him in O.A. No.1041/03 before the competent authority, who shall reconsider the matter and decide the same in the context of relied upon judgment within a