

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 1571 OF 2004.

ALLAHABAD THIS THE 22ND DAY OF JANUARY 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

Visheshwar Nath aged about 31 years son of Sri Ram Singar Resident of Village and Post Siswan via Bhatni, District Deoria, Uttar Pradesh.

.....Applicant

(By Advocate: Sri K.K. Mani)

Versus.

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. The Chief Workshop Manager (Personnel), Mechanical Workshop North Eastern Railway, Gorakhpur.
3. The Chief Personnel Officer, North Eastern Railway, Gorakhpur.
4. The Senior Personnel Officer/R.P for General Manager (Personnel) North Eastern Railway, Gorakhpur.

.....Respondents

(By Advocate: Sri K.P. Singh)

O R D E R

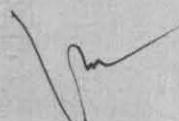
The applicant, Visheshwar Nath is the youngest son of Sri Ram Singar who was admittedly in employment of Railways before 1983. He was medically decategorised or declared medically unfit, in the year 1983. After about 12 years of his retirement, he moved application for giving appointment to the applicant, his son on compassionate grounds. It appears from the perusal of record that in declaration filed by him in support of said application for compassionate appointment, he disclosed that he had, besides his wife, one son (the applicant) and a daughter. He did not disclose in that declaration that he had four sons including the applicant. After necessary consideration, the Authorities turned down his request, vide order dated 27.2.2004 saying that firstly the request was being

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made after about 12 years of medical decategorization and secondly the factum of his having three more sons, had deliberately been suppressed. It was also said that under the Rules, application moved after expiry of period of five years of such medical decategorization, was not tenable that too for appointment of youngest son. It is, this order, which is being assailed by the applicant in this O.A.

2. The respondents have filed reply contesting the claim.

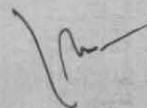
3. Sri K.K.Mani, learned counsel for the applicant has contended that since Railway Board has issued fresh guidelines vide order No. RB No.E(NG)II/95/RC-1/94 dated 10.11.2000 for extending the facility of compassionate appointment to one of the wards of medically decategorised employee, so the respondents were not justified in turning down the request for appointment of the applicant on the ground that such appointment could not be given to the youngest. He says that the Authorities ought to have considered the matter of the applicant in the light of this latest Railway Board order dated 10.11.2000 and since they have not done it and so this order deserves to be quashed and authorities be directed to re-consider the matter. Sri K.K. Mani has also contended that since Ram Singar is blind and so he could not go through the contents of declaration and he simply put his thumb impression on the prepared declaration. He says it cannot be said that he suppressed his material fact. Sri K.K. Mani has also argued that according to the Circulars issued by the Railway Board, such request for compassionate appointment was entertainable even after the expiry of five years and up to 20 years. In this connection, a reference is being given to RB No.E(NG)II/99/RE-1/Gen./23 dated



30.11.1999. Learned counsel goes on to argue that the case of the applicant could not have been rejected on the ground that request was being made after 12 years medical decategorization as the respondents themselves took about 9 years in disposing of the matter. The learned counsel says, soon after the applicant attained the majority the request by Sri Ram Singar, was made for his appointment.

4. Sri K.P. Singh, the learned counsel for the respondents has contended that there is no denial of the fact that the applicant is the youngest son of Sri Ram Singar and there are three elder brothers of the applicant. He says that in case the family was facing financial hardship in sustaining itself and in case the applicant was minor in 1980s, then Sri Ram Singar could have very well come forward for compassionate appointment of either of other three sons. According to him, such appointment is given to the wards of the employee or the deceased employee just to prevent it from facing financial crisis and if the family felt no need of such assistant for 11 or 12 years, there is no justification for compassionate appointment. Learned counsel for the respondents has also tried to say in making request for appointment of the applicant, Sri Ram Singar concealed the true state of affairs that he had three more sons. Learned counsel for the respondents has tried to say that there is nothing wrong in the impugned order by which the request of the applicant for compassionate appointment has been turned down.

5. I have considered the respective submissions in the light of material on record. It stands well settled, after catena of decision of Apex Court that compassionate appointment is by way of exception to the general Rule of appointment. It is also well



settled that more the period lapses to the date of death of employee or to the date of medical decategorisation etc. lesser are the chances for such appointment. In case in hand, the request for compassionate appointment came after about 12 years of the date of medical decategorisation. If the applicant or his father were really requiring any assistance by way of compassionate appointment so as to sustain the family, the request ought to have come immediately after medical decategorisation especially when the applicant had three sons who were elder to the applicant. Moreover, the fact that applicant had three more elder brothers, was rather suppressed at the time of making request for appointment of the applicant. Sri Ram Singar may not be justified in disowning suppression of material fact by saying that he put the thumb impression without knowing the contents of declaration. No satisfactory explanation has come as to why the request for compassionate appointment of either of elder brothers of the applicant, was not made soon after the medical decategorization. It is true that such request for compassionate appointment may be entertained, in suitable cases, after lapse of time but this does not appear to be one of such cases. I do not find anything wrong in the impugned order, which is being impugned in this O.A. The O.A. is dismissed but with no order as to costs.

1, J.M. 22.1.07
Vice-Chairman

Manish/-