

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 31st day of MARCH 2005.

Original Application no. 43 of 2004

Hon'ble Mr. D.R. Tiwari, Member A
Hon'ble Mr. K.B.S. Rajan, Member J

1. Govind Singh, S/o Late Jahar Singh,
R/o 485, Railway Area, Back of the Office of the
Divisional Railway Manager,
Jhansi.
2. Vijai Singh, , S/o Late Jahar Singh,
R/o 485, Railway Area, Back of the Office of the
Divisional Railway Manager,
Jhansi.

...Applicants

By Adv: Sri A.K. Srivastava

V E R S U S

1. Union of India through General Manager,
N.C. Railway,
ALLAHABAD
2. Divisional Railway Manager,
N.C. Railway, Jhansi Division.
JHANSI.
3. Senior Divisional Personnel Officer,
N.C. Railway, Jhansi Division,
JHANSI.

...Respondents

By Adv: Sri Gautam Chaudhary

ORDER

By K.B.S. Rajan, JM

1. Grant of compassionate appointment is the issue involved in this case.
2. The applicant No.1 and 2 in this case were a minor when their father who was working in the Railways as Khalasi expired in 1990. The mother of the applicant predeceased his father. At the time of the demise of the father of the applicant, the applicants were of tender age of 9 years and 7 years respectively. The applicant Mp/ 1, on attaining majority in 1999 applied for compassionate appointment but the same was rejected on the ground that he



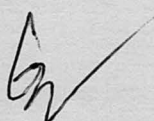
did not have the requisite educational qualification. As such, the second applicant, on attaining the majority in June 2001 applied for compassionate appointment in 2002. This having not been responded, he had caused a legal notice issued to the respondent in December, 2002. As there was no response for the said legal notice too, the applicant has moved the present OA. The applicant has relied upon the order dated 22-12-1994 of the Railway Board whereby the powers to consider the compassionate appointment even up to 15 years after the demise of the railway employee has been conferred upon the General Manager.

3. The respondents have contested the OA. Their contention is that the applicant's father was only a casual labour and as such, the provisions of compassionate appointment are not applicable to the wards of such casual labourers. In this regard reliance was placed upon Order dated 31-12-1986 (Annexure CA-3). Again, he had contended that in so far as the time limit for application for compassionate appointment is concerned, under the provisions of order dated 01-03-1985, the minors could apply for such Compassionate appointment, only if they attained the majority within five years of the demise of the Govt. Servant.

4. Though in the counter there was an objection as to limitation, the counsel for the respondent has not argued upon the same.

5. We have considered the rival contentions, perused the records and gave our anxious consideration.

6. The contention of the respondent in regard to the non entitlement of concession of compassionate appointment to casual labourers is not borne on records. The reliance placed upon by the counsel for respondent, vide annexure CA III in fact specifically contains that the benefit is available to the wards of Casual labours who die in harness, though with some stipulations. The said order reads as under:-



"5. Min of Railways have now decided that if a casual labourer with temporary status dies in harness, i.e. during his employment with Railways and if the case presents features constituting extreme hardship, meriting special consideration, the General Manager could exercise his personal discretionary power for giving appointment to eligible and suitable ward of such casual labour on compassionate grounds. Such appointment will be only in the form of engagement as casual labour (fresh face) or as substitute. The Ministry expect this power to be exercised judiciously keeping in view in particular the need to contain the total casual labour force as enjoined in the extant instructions on the subject.

6. The power to make such appointments should not be further delegated to a lower authority"

Similarly, the restriction of five years of the date of event of demise of the govt. servant, before which the minor should become major for deriving the benefit of compassionate appointment vide order dated 1-3-1985 too cannot be of any assistance to the respondents as the subsequent order dated 22nd December, 1994 relied upon by the applicant holds the fort.

7. The Learned Counsel for the applicant also relies upon various judgments as under:-

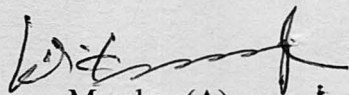
- a. *2003(2) ATJ 91 (Gujarat High Court), Shantilal K. Saoanki Vs. Union of India & Ors*
- b. *2000 SCC (L&S) 767, Balbir Kaur and others Vs. Steel Authority of India Ltd. & Ors.*
- c. *(2003) 1 SAC 500, Smt. Padma Pathak Vs. Managing Director, Punjab National Bank, New Delhi and others*
- d. *Writ Petition No. 3293 of 1999 (Hon'ble Mumbai High Court), Smt. Phool Kumari Gupta Vs. Union of India & Ors*
- e. *(2000) 1 SAC 214, Sanjeev Kumar Dubey Vs. District Inspector of Schools, Etawah.*
- f. *Special Appeal No. 28 of 2000 (Hon'ble Allahabad High Court), Sanjay Kashyap Vs. Chief Medical Officer, Maharajganj & Ors*
- g. *2000 (2) ESC 967 (Alld), Manoj Kumar Saxena Vs. District Magistrate Bareilly.*
- h. *2001 (2) ATJ 387, Smt. Anar Kali and others Vs. Union of India & Ors.*
- i. *OA No. 314 of 1992 (CAT Allahabad Bench), Suneeta Verma Vs. Union of India & Ors.*

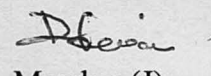
8. Taking into consideration the decision of the higher Courts, and the rules on the subject, it is clear that the act on the part of the respondent in not

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considering the application of Applicant No. 2 for compassionate appointment is not in accordance with law. Applicant No. 2 is entitled to the benefit of the scheme of compassionate appointment as contained in order dated 01-03-1985 and as such, the respondents are directed to consider the application of the applicant for compassionate appointment as casual labour within, of course the total casual labour force enjoined in the extant rules on the subject. This should be complied with, within a period of three months from today or within the immediately available situation to engage a casual labour and in case there is no room for the time being for engaging him within three months, the respondents shall communicate to the applicant about the same and indicate the probable time by which the applicant could be engaged.

9. No order as to cost.


Member (A)


Member (J)

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