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Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 466 OF 2005.

ALLAHABAD THIS 6th DAY OF December 2007

Hon'ble Mr. Shailendra Pandey, MEMBER-A

Har Kishore Sharma, S/o Shri Ram Raksh Pal Sharma, R/o Village Lakhmia, Post Khadgujja Via Gajrola, District Moradabad, now Jyoti Ba Phule Nagar.

.....Applicant

(By Advocate: Sri A. Rajendra)

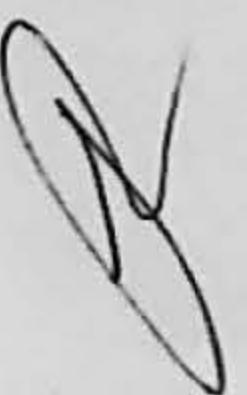
Versus.

1. Union of India, through Secretary, Railway Board, Rail Bhawan, New Delhi.
2. Additional Member Personnel, Railway Board, Rail Bantralaya, New Delhi.
3. General Manager (P), N.R., Borada House, New Delhi.
4. The Divisional Railway Manager, N.R. Moradabad Division, Moradabad.

.....Respondents

(By Advocate: Sri A. Tripathi.)

O R D E R


Vide this O.A., the applicant, who is brother of late Shri Chanchal Kishore Sharma, Ex-Clerk, Commercial Section, DRM Office, Moradabad (who died

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on 25.2.2000) has challenged the action of the respondents in denying him compassionate appointment as a dependent of his deceased brother.

2. The ex-employee was a bachelor, but since he was virtually handicapped, being fully blind at the time of his initial appointment, the applicant lived with him, brought him to office for duty and took him back every day. The applicant's counsel also stated that in the Ration Card issued to the deceased employee, the name of the applicant was clearly recorded and that the ex-employee had also declared the applicant as his dependent and had also made him a nominee for his Provident Fund dues, and that the applicant was also paid the Death-cum-Retiral benefits of the deceased. It is, therefore, being contended that the applicant was fully dependent on the deceased at the time of his death and that he was, therefore, entitled to compassionate appointment on the death of the ex-employee. It has also been stated in the O.A. that both the brothers lived together in Moradabad and had no connection with their father who is stated to be residing in his village. After the death of his brother, the applicant made a claim for compassionate appointment, but the same was rejected vide orders dated 4.10.2001 and 12.2.2002 on the ground that the applicant was not dependent on his brother and that he was not found fit as ~~his~~ per

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Pass Rules and ^{as} his father is still alive. The appeal of the applicant against the said order of the DRM, NR, Moradabad, was also rejected vide order dated 20.3.2004.

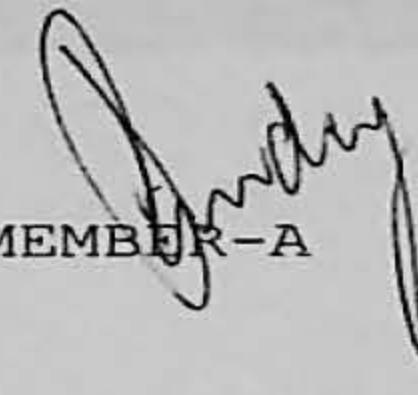
3. The respondents' counsel has argued that the applicant's case for compassionate appointment has been correctly rejected according to the Rules as the applicant was not dependent on his brother, and that he "just assisted him in day-to-day work" in view of the fact that the applicant was blind. He has also mentioned that his case has correctly rejected according to the Rules as it was found that the father of the applicant "is earning pension and has property aspects, besides cattle and land for agriculture". He has also mentioned that as per the investigation conducted the father of the applicant has his own house and six acres of agricultural land. More-over, when the father of the applicant is alive, the question of other members of his family being dependent on the deceased employee does not arise.

4. In his Rejoinder affidavit, the applicant has denied that his father has the above property which he says is ~~existed~~ in the joint name of his father and father's elder brother. It is also stated that it was wrong to decide the dependency on the record of the Welfare Inspector when the applicant had

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clearly been shown as a dependent in the Ration Card.

5. Having being through the pleadings and arguments of both the counsels, and particularly in view of the fact that the respondents have rejected the case of the applicant after due consideration and investigation of the financial status of the father of the applicant, I do not think that it would be appropriate for this Tribunal to intervene in the matter. In cases of compassionate appointment, the financial condition of the applicant's family is the predominant determining factor and the Tribunal cannot substitute its own assessment of this when the respondents have already had the assessment made before ~~presenting~~ the case. The O.A, therefore, fails and is dismissed. No costs.


MEMBER-A

GIRISH/-