

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

Registration O.A.No. 1358/88

Chandan Nath Pal & othersApplicants

Versus

Union of India & OthersRespondents

Hon'ble Mr. Justice K.Nath, V.C.
Hon'ble Mr. K.Obayya, Member (A)

(By Hon'ble Mr. Justice K.Nath, V.C.)

This application under section 19 of the Administrative Tribunals Act 1985 is for compassionate appointment of applicant no. 3 Sudeep Pal in consequence of the death of his elder brother Pradeep Pal in harness. It appears that within a few months of his appointment as ESM Grade II ^{in the Tele -} Communication Department at Hiragoan Station under Allahabad Division, Sri Pradeep Pal was run over by a train on 6.9.87 while on duty at the Railway Station. He was bachelor when he died. On 27.10.1987 the applicant no. 1, Chandan Nath Pal, the father of the deceased, made an application (Annexure-12) to the General Manager for compassionate appointment of applicant no. 3 Sri Pradeep Pal on the ground that Sudeep was getting full help in regards to the educational expenses from the deceased. It is further stated that the entire family was dependant ^{ant} on the source of income of the deceased because it was not possible for the family to maintain with this petty pension. Learned Counsel for the applicant states that the applicant no. 1 was also in Railway service when he

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retired in December 1982.

2. The application (Annexure No. 12) was forwarded by the DSTE to the DRM with the recommendation that it might be considered sympathetically. However, the application was rejected and rejection was communicated to applicant no. 1 through letter dt. 3.12.1987 (Annexure No. 1)

3. The applicant's cases that the applicant no. 3 in particular, and the entire family ^{in general} was dependent upon the deceased and the respondents erroneously held that no compassionate appointment could be made because according to the records the deceased had no dependents, having died as a bachelor. In para 4(x) of the O.A. it is stated that the applicant's ^{case} was to be considered sympathetically in the light of the Railway Board's letter no. E(NG) (III)/78/RCI/1 dt. 30.4.1979. The case in the counter is that the deceased had not indicated in service record that he had any dependent and that since he was a bachelor, no compassionate appointment should be given for reasons of his death.

4. We have heard Sri Anand Kumar, counsel for the applicants and Sri D.C. Saxena, counsel for the respondents. We have gone through the records. Apparently it is a small family consisting of a retired father, a mother and two brothers, including the deceased. The father having retired in December 1982, the probability is that the

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earning of deceased Pradeep Pal would be supplementing the livelihood of the family. The applicants have stated specifically that the family as a whole, and the applicant no. 3 in particular, was dependent upon the deceased. We do not think that the mere indication in the service record of the deceased that he had no dependent should be enough proof that as a matter of fact none of the family members depended upon him. It should have been appropriate for the respondents to make a spot enquiry to find out the truth. That does not appear to have been done.

5. Learned counsel for the applicant has relied upon the Railway Board's circular dt. 30.4.1979 which mentions, in the first instance, that the dependents' relative of such persons should be ~~compensated~~ compensated by offering appointment to them but where no such dependant with the necessary qualification for employment is available, relevant appointment may be offered by the personal order of the General Manager to a nephew or another relative.

6. We are of the opinion that the applicant no. 3 would fall into the latter category. In that situation his case should be considered for compassionate appointment.

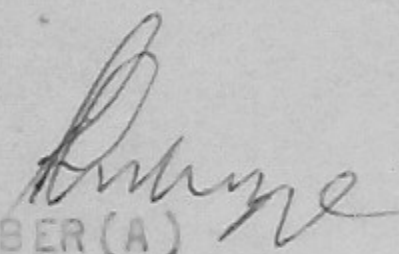
7. We notice that while the representation

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(Annexure No. 12) for compassionate appointment was addressed to General Manager, the impugned order (Annexure No. 1) passed by the DRM. The power to make compassionate appointment being vested in the General Manager as apparent from the Railway Board's aforesaid circular of 30.4.79 DRM was not competent to reject the application.

8. For reasons stated above, this application is allowed, and impugned order dt. 3.12.1987 contained in Annexure No. 1 is quashed and we direct that the case of the applicant for compassionate appointment on the basis of his being dependant on the deceased shall be considered by the General Manager and appropriate orders in accordance with the rules shall be passed within a period of ^{three}~~one~~ months from the date of receipt of a copy of this judgment.


MEMBER(A)


VICE CHAIRMAN

DATED: 19.7.1991

Allahabad

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