

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

O.A.No.648/88

Babu Lal Pippal ::::: Applicants

Vs.

Union of India & Others ::::: Respondents.

Hon. Mr. Maharaj Din, J.M.

(By Hon. Mr. Maharaj Din, J.M.)

This is an application under section 19 of the Administrative Tribunal's Act of 1985 for issuance of direction on the respondents for compassionate appointment of the wife of the applicant Babu Lal Pippal, who was in the employment ^{under the} Divisional Railway Manager, N.E. Railway, Allahabad.

2. The applicant Shri Babu Lal Pippal, who was in the employment under Divisional Railway Manager, N.E. Railway, Allahabad, as cleaner, has suffered from paralysis attack while on duty on 30-9-87.

He was declared medically unfit and was decategorised.

The applicant, who has no source of income, submitted ^{Vishna} an application for appointment of his wife Smt. ^{Vishnu} Devi on compassionate ground to Divisional Railway

Manager, N.E. Railway, Allahabad on 20-10-87. The

Divisional Railway Manager, N.E. Railway, Allahabad,

through letter dated 23-3-88 informed the applicant that his request for appointment of his wife on compassionate ground has been rejected. So being aggrieved by

this order of the Divisional Railway Manager, N.E. Railway Allahabad, the applicant has come up before this

Tribunal for the aforesaid relief.

3. The respondents filed reply and resisted the claim of the applicant on the ground that the elder son of the applicant is already in the employment of Railway Administration. Therefore, the wife of the applicant cannot be given appointment on compassionate ground.

4. I have heard the learned Counsels for the parties and perused the records.

5. The respondents has filed copy of the Railway Board's letter dated 3-12-84 (Annexure-1), which is reproduced as under:-

" Sub:- Appointment on Compassionate Grounds

Attention is invited to the clarification given against item (I) in this Ministry's letter No. (E)NG-III-78/RCI/1 dated 3-2-81 in which it was stated that in the case of a railway servant who is medically incapacitated or decategorised and who retires from service, only a son or a daughter is eligible for appointment on compassionate grounds and not the wife.

2. The question whether in such cases appointment on compassionate grounds of the wife of the ex-employee also should be allowed, has been under consideration, organised labour also have represented that in such cases appointment to the wife of the employee concerned should be permitted.

3. Ministry of Railways have carefully considered the matter. They have now decided that in the case of a railway servant who is medically incapacitated or decategorised and retires from service and if compassionate appointment is otherwise permissible such appointment may be offered also to the wife of the railway servant subject to the following conditions:-

(1) Either the employee has no son or daughter, or daughter is a minor at the time the request for appointment is made :-

- (ii) In each case, the appointment will be approved personally by the Chief Personnel Officer; and
- (iii) the Railway Administration has no practical difficulty in offering appointment in a post for which the candidate is eligible and suitable. "

6. Thus, according to this letter, appointment to the wife of the medically decategorised employee can be given on compassionate ground on fulfilment of certain conditions ~~xx~~ mentioned in the aforesaid letter. The condition No.(i) of paragraph 3, is material ^a for the present case. The applicant in para 6(vii) of the application has stated that at present the applicant has two minor sons and he has got no source of income to maintain his family, so the condition mentioned in Annexure-I filed by the respondents is fulfilled with the exception that the applicant's ~~ix~~ eldest son is employed. The applicant has clearly stated in paragraph 6(vii) that his eldest son Rameshchandra, who is employed, is living separately since 1975 and Smt. Vijaylaxmi, who is married daughter is living with her husband since 1984. The family of the applicant consists of himself, his wife and 2 minor sons. The applicant is a crippled man and has no source of income. The respondent has not denied the allegations made in para 6(vii) of the O.A.

7. The respondent in para 12 of the counter-reply has stated that "the facts stated in para 6(vii) of the petition needs no reply. It may, however, be stated that in view of the circular of the Railway Board dated 16-11-84 the wife of the petitioner is not entitled for appointment on compassionate ground." Thus the fact that the eldest son Shri Rameshchandra, is living separately since 1975 remains un-challenged.

8. The applicant, in the rejoinder, has reiterated that his eldest son, Ramashchandra, is in service since 1973 and is living separately with his wife and children. Therefore, on this ground the appointment of his wife on compassionate ground cannot be refused. The applicant also fulfils the conditions placed in the Railway Board's letter dated 16-11-84 that — he has got his wife and 2 minor sons and he has no source of income. It may also be noted that his son was not appointed on compassionate ground because he entered in the employment in the year 1973 whereas the applicant has been declared medically unfit after he got attack of paralysis on 13-9-87. The applicant was the only bread-earner of his family at the time he suffered paralysis attack and was medically decategorised. The meagre sum of pension is not enough to maintain the family of the applicant. Thus, considering the facts and circumstances of the case I am of the opinion that this is a fit case in which direction can be issued to the respondents for providing compassionate appointment to Smt. ^{Vijaya Devi} ~~Vijaya Laxmi~~, wife of the applicant.

9. The application is accordingly allowed with the direction that the respondent shall provide employment to Smt. ^{Vijaya Devi} ~~Vijaya Laxmi~~, wife of the applicant on compassionate ground on any suitable post within a period of 4 months from the date of communication of this order.

10. There will be no order as to costs.

[Signature]
22.1.93
Member (J)

22.1.93
Dated: 23-11-92, Allahabad.

(tgk)

*corrected
on 31.5.93*

22.1.93