

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIAHABAD BENCH

Original Application No.1807 of 1992

Paras ..... Petitioner  
Versus  
Union of India and Ors ..... Respondents

CORAM:

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

( By Hon. Mr. Justice R.K. Varma, V.C. )

R.K.W  
By this petition filed Under Section 19 of the Administrative Tribunals Act 1985, the petitioner has sought quashing of the orders dated 18.1.80 and 9.9.92 (Annexures A-1 and A-4 to the petition). By order (Annexure A-1) dated 18.1.80 the application for employment of the petitioner in relaxation of normal recruitment rules has been rejected and by (Annexure A4) dated 9.9.92 the petitioner's application (Annexure A-3 to the petition) for compassionate appointment on the ground of retirement of his father on medical ground was rejected.

2. The petitioner's father late Shanker was working as mazdoor in the Central Ordnance Depot, Chheoki, Allahabad. When he reached the age of 55 years he was almost incapacitated and had been quite irregular in his duties. He almost lost his eyesight and had become physically unfit and he could go to his duty only with the help of an attendant. As such, he approached the then

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Commandant and the Administrative Authorities to retire him on medical ground as he was incapable to perform his duties and also had made absence without pay and allowances and his family had to starve. He applied for retirement on medical ground but on account of delay caused in carrying out official formalities and arranging medical board etc, for which the petitioner was not responsible, he was retired on medical ground on 14.8.78 when the petitioner had crossed the age of 57. The petitioner's father was sanctioned invalid pension w.e.f. 15.8.78. The petitioner's father late Shanker ultimately died in 1984.

3. It appears that late Shanker applied on 15.8.78 i.e. the next day of his retirement for giving compassionate appointment to his son by reason of his retirement on medical ground and it also appears from the statement made in (Annexure A-2) that the petitioner was below the age of 18 years and the appointment was sought in relaxation of normal recruitment rules but that application was rejected by (Annexure A-1) dated 18.1.80. The order of rejection is stated in (Annexure A-1) as under:-

"The case for employment in relaxation of normal recruitment rules in respect of above named individuals has been considered by a Board of Officers convened to consider all the pending cases with us. It is regretted that the instant case has not been recommended by the Board in the face of more deserving cases and limited number of vacancies available with us".

3. It appears that on attaining majority and after the death of late Shanker and being in indigent and distressing circumstances, the petitioner made an application (Annexure A-3) for being given compassionate appointment on the ground that his father late Shanker was retired on medical ground and was granted invalid pension. This application of the petitioner was rejected pointing out that the provision of compassionate appointment is applicable to the wards of those government employees who die in harness. The respondents have apparently not considered the relevant provision for giving appointment to the son of an invalidated employee who is retired on medical ground. According to (Annexure A-5) filed by the respondents in case of group 'D' employees whose normal age of superannuation is 60 years compassionate appointment may be considered where they are retired on medical ground before attaining the age of 57 years.

R.K.V.  
5. The learned counsel for the respondents has submitted that the petitioner was ultimately retired on medical ground after crossing the age of 57 years and as such, compassionate appointment to the son of the petitioner could not have been given under the provision pointed out as stated in (Annexure A-5).

6. The learned counsel for the petitioner on the other hand has cited a decision of Calcutta Bench of C.A.T reported in 1989(2) A.T.J, page 32 'Adhir Kumar Nath Vs. Union of India and Ors', wherein the application for appointment made by the son of an invalidated employee who was discharged from service on medical

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ground after crossing the age of 58 years was held maintainable on the applicant's contention that the employee was declared unfit by the Asstt. Divisional Medical Officer on 6.9.83 but he was retired on 18.1.84 when the Medical Board declared him incapacitated, since the employee was in no way responsible for the lapse of time between 6.9.83 to 18.1.84.

7. Having heard learned counsel for the parties and having perused the applications and the impugned orders (Annexures A-1 and A-2), I am of the opinion that the applications of the petitioner has been decided without considering the relevant provision for compassionate appointment on the ground of the retirement of petitioner's father from government service due to invalidity on medical grounds. As such the orders (Annexures A-1 and A-4) rejecting the petitioner's representation for appointment on the ground of his father's retirement due to medical unfitness are hereby quashed. It is further directed that the respondents shall consider the representation of the petitioner for compassionate appointment on the ground of his father's retirement due to medical unfitness with reference to the relevant provision in that behalf.

8. This petition is accordingly allowed as above with no order as to costs.

R.K. Verma  
Vice Chairman

Dated: Sept: 30. 9 1993

(Uv)