

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad : Dated this 10th day of December, 1999

Original Application No.1872 of 1994

District : Ghaziabad

CORAM :- Hon'ble Mr. S. Biswas, A.M.

Smt. Har Pyari Devi
W/o Late Mahendra Singh,
R/o Vill & Post-Surana,
Distt-Ghaziabad.

(Sri Satish Dwivedi, Advocate)

. Applicant

Versus

1. Union of India
Through the General Manager,
Northern Railways,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railways,
Allahabad.
3. Assistant Security Commissioner,
Railway Protection Force,
Northern Railways, Tundla.

(Sri Prashant Mathur, Advocate)

. Respondents

O R D E R

According to the applicant Smt. Har Pyari Devi, her husband late Mahendra Singh who was a permanent Constable in Company No.53 of the Railway Protection Force, Tundla. He was discharged from the service w.e.f. 31-10-1992 on medical ground vide order of Assistant Security Commissioner dated 15-10-1991 whereas in normal course he would have retired on 31-7-2002. As her husband was decategorised vide medical request dated 5-6-1990, and discharged from service he made several representations for suitable job as provided for decategorised personnel vide Ministry of Railways Circular dated 12-12-1990(M/C No.16/90) at Annexure-P/21. After being laid off from the job, he made at least

S. Biswas

two representations before the competent authority of the Railways for a suitable compassionate appointment of his fully qualified but unemployed eldest son Shri Surendra Kumar. Ultimately, the applicant's husband Mahendra Singh expired on 1-5-1993 leaving the applicant financially hard pressed. After her husband's death also, several representations were made by the applicant for compassionate appointment of her son. The last application made to the respondents is dated 10-7-1994. (Annexure-10). But so far no reply has been received. Nor the applicant's son has been given any compassionate appointment as warranted and represented in the case. It is claimed that all these representations were sent under registered cover. The learned counsel for the respondents have inter alia denied that the respondents have received any such representations for compassionate appointment. If any representation for compassionate appointment for his son was made in 1992/93 the same was evidently premature also, as the competent Railway authority was trying to give her husband, Mahendra Singh, a suitable alternative job after decategorisation in terms of the Ministry of Railways Circular dated 12-12-1990. He was referred by the competent authority to the Divisional Office for giving him alternative job (vide Asst. Security Commissioner Tundla's letter No.438/E/RPF/M Singh/TDL/90 dated 17-7-1996. Even his leave for the period from 5-6-1990 to 30-1-1992 was sanctioned as per the rules.

2. The applicant's husband was advised on 3-3-1992 to appear for medical check up in connection with his application for alternative appointment, but he failed to appear on the ground of late receipt of the notice. Therefore, another chance was given for the

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checking on 31-7-1992 which he failed to attend for reasons best known to him.

3. The learned counsel for the respondents has accepted the fact that as a declassified employee, the applicant's husband was eligible for suitable alternative appointment and settlement of claims and arrears. Both these aspects of the guidelines contained in the railway circulars dated 12-12-1990 have been fully complied with first by offering him an alternative job but the incumbent failed to avail it by not attending the medical checking which is a pre-requisite ~~and record~~, the leave as per rules was ^{SB} sanctioned and dues paid to him as per the sanction.

4. A mention has been made in the counter that the O.A. dated 16-12-1994 after disposal of her petition regarding claim in 1992 dated 11-12-1992, is time barred. Besides, Mahendra Singh was a member of the armed force and, therefore, this case is not within the jurisdiction of the Hon'ble CAT.

5. Cognizance of the O.A. of the applicant was taken with reference to her representation dated 10-7-1994 which is still pending before the respondents. Mahendra Singh was not a Defence personnel, as it is tried to be alleged. As a civilian employed in Railway Protection Force Mahendra Singh's case, read with the applicant's petition for compassionate appointment of her son in terms of Ministry of Railways Circular dated 12-12-1990 is maintainable.

6. The respondent's counsel declined to acknowledge receipt of the application of Mahendra Singh dated 10-12-1992 and 12-12-1993 for compassionate appointment of his son and also the receipt of the applicant's letter. It is mentioned during the arguments of the case that

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these letters were not sent under registered covers as
vouched in the OA. These were actually sent under
certificates of posting. All the same, these have not
been received.

7. I have considered the submissions carefully. The
claims or dues of the deceased husband of the applicant
have decisively ^{gone} settled and there persists no cause of
action on that. ^{so}

8. Regarding compassionate appointment, the Railway
Circular dated 12-12-1990 is very clear. The case is
clearly covered under the Category 1(iv)-----. The
circumstances in which appointments on compassionate
ground are made are as below :-

iv) when the Railway employee becomes crippled
while in service, or develops serious ailment
like heart disease, cancer etc., or otherwise
medically decategorised for the job, they
are holding and no alternative job for the
same amoluments can be offered to them."

9. The incumbent did not die while in service. He was
decidedly offered an alternative job opportunity for
himself after decategorisation which he did not avail
by defaulting to appear for medical check fixed in this
behalf. Since a job was indeed offered, the claim for
compassionate appointment of the son, is not covered under
this circular cited by the applicant. // By not availing
the job opportunity, the claim for compassionate appoint-
ment stands forfeited. The application is not maintainable
and is, therefore, dismissed. There shall be no order as
to costs.

S. Dube
Member (A)

Dube/

S. Dube