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OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 5th day of January, 1996  
O.A No.134 of 1994

District : Allahabad

QUORUM:-

Hon'ble Mr.S. Das Gupta, A.M.

Gulab Chand S/o Late Sri Nankoo,  
r/o Village - Bhatkar,  
Post-Nivi (Ghusi)

District-Allahabad.

(By Sri A.K. Srivastava, Advocate)

..... Applicant

Versus

1. Union of India  
through its Secretary,  
Ministry of Railway,  
New Delhi

2. General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

3. Divisional Railway Manager,  
Northern Railway,  
D.R.M. Office,  
Allahabad.

(By Sri A.K. Shukla, Advocate)

..... Respondents

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O R D E R ( O\_r\_a\_L )

By Hon'ble Mr. S. Das Gupta, A.M.

This application was filed under Section 19 of the Administrative Tribunals Act, 1985, seeking a direction to the respondents to appoint the applicant on compassionate ground.

2. The facts set up with the application are that the applicant's father died on 21-9-1973 in harness leaving behind his widow and three sons including the applicant. All those sons are stated to be minor at the time of their father's death. It has been further stated that on 24.6.77 the applicant submitted a representation for his appointment on compassionate ground and a communication was given to him stating that his case would be considered in due course. Subsequently, by the impugned order dated 9-12-1993, the request of the applicant has been turned down. Hence, the applicant filed this application seeking the aforementioned relief.

3. The respondents have filed a written statement in which it has been stated that the father of the applicant had retired on 17-5-1972 and he expired on 21-9-1973. He was, therefore, not in service at the time of his death and, hence the rules regarding compassionate appointment cannot be made applicable to the applicant.

4. The applicant has filed a rejoinder affidavit in

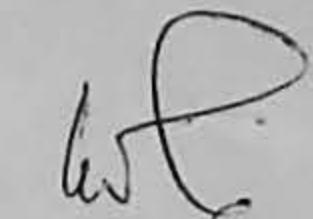
which he has now come out with a plea that the date of birth of the applicant was wrongly recorded on the basis of which he was retired w.e.f. 17-5-1972, but subsequently the father of the applicant had raised dispute regarding the correction of date of birth and the same was amended as 18-5-1924. Accordingly, the applicant should have been retired on 17-5-1982 and not on 17.5.1972.

5. I have heard learned counsel for both the parties. I have also gone through the record. It is the case of the respondents that the applicant's father did not die in harness as his death took place after he retired from service. If that be so, clearly the applicant has no right to be considered for compassionate employment. The respondents have also annexed the pension payment order as Annexure-CA-1 which indicates that the applicant's father died on 21-9-1973 and the family was paid family pension from 18-5-1972 itself. This would clearly establish that the applicant's father had retired on 17-5-1972 as has been claimed by the respondents. The applicant has stated that his father should have been retired only on 17-5-1982 according to the amended date of birth. This plea has been taken only in the rejoinder affidavit and as such this vital fact was not disclosed in the application. This itself causes doubt as to the validity of the statement made in the rejoinder affidavit. Moreover, in view of the specific

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statement in the pension payment order of which a copy is annexed as Annexure CA - 1 of the counter affidavit, the plea taken by the applicant in the rejoinder, appears to be wholly unsubstantiated.

6. Once it is clear that the applicant's father had died after the retirement from service, the applicant clearly has no right to be considered for the compassionate appointment. The application is, therefore, totally devoid of merit and is to be dismissed accordingly. There shall, however, <sup>/be</sup> no order as to costs.



Member (A)

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