

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

DATED : ALLD. ON THIS 4TH DAY OF SEPTEMBER, 1998.

CORAM : HON'BLE SHRI S.K.AGRAWAL, MEMBER (J)

ORIGINAL APPLICATION NO. 1375 OF 1995

Kunji Lal S/o Late Shri Pati Singh R/o
Nagreha, Post Paschim Sarira, Allahabad.

.....Applicant

C / A : Shri H.K.Mishra, Advocate.

Versus

1. Union of India through its Secretary, Rail Mantralaya, Rail Bhawan, New Delhi.
2. Mandal Rail Prabhandhak, Northern Railway, Allahabad.

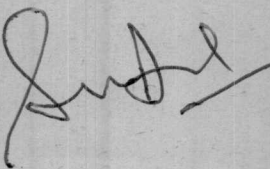
....Respondents

C / R : Shri A Tripathi, Advocate.

O R D E R

(By Hon'ble Shri S K Agrawal, Member(J))

In this application filed under section 19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to issue direction to the respondents to give an employment to the applicant on compassionate ground.

-  1. In brief, the facts of the case, as stated by the applicant, are that the applicant is the real son of Late Shri Pati Singh, who was appointed on the post of Gateman in the year 1964 and was posted at Gate No.17-C, near Nihalpur, Bharwari, Allahabad. It is stated that in the intervening night of 9/10-02-1971 when Shri Pati Singh was on duty, some decoits came and murdered him. It is submitted that the deceased Pati Singh was a confirmed employee on the post of Gateman and the age of the applicant was only one year at the

time of death of his father. Applicant's date of birth is 04.07.70 as per his High School certificate. It is also submitted that the mother of the applicant was also died on 15.08.70, leaving only the applicant as her son. The applicant remained in the guardianship of his Uncle Shri Deshraj and Shri Deshsraj was looking after the applicant out of the pension which he was getting on account of death of his father but the respondents malafidely refused to give appointment to the applicant on compassionate ground to which he is legally entitled to under the dying-in-harness rules. The applicant is the only son of his father and there is no claimant for the employment except the applicant. Therefore, the applicant makes a prayer that suitable direction be given to the respondents to give employment to the applicant on compassionate ground.

2. A counter was filed by the respondents. In the counter, the appointment of the father of the applicant and his death on intervening night of 9/10-02.1971 was admitted. In the counter, it is stated that the applicant Kunji Lal Yadav attained the age of majority on 04.07.1988 and request for compassionate appoint^{ment} on 16.03.1991 after two years and eight months of attaining the age of majority was made. Therefore, as per provision of the rules, the matter was referred to the Headquarter's office for consideration of the competent authority. The case was considered by the General Manager, who after careful consideration of this case, did not find sufficient ground for granting the relaxation of time limit as there was inordinate delay in requesting the appointment on compassionate ground. It is also submitted that there was no special feature for relaxtion of time limit. Accordingly, the applicant was replied vide letter dated 17-10/11-1995. Therefore, on the basis of counter filed, the respondents have requested to dismiss this O.A. with costs.

3. Rejoinder was also filed. In the rejoinder, the facts stated in the Original Application were reiterated and denied the facts stated by the respondents in the counter.

4. Heard the learned lawyer for the applicant and learned lawyer for the respondents and perused the whole records.

5. Learned lawyer for the applicant submitted that the respondents did not appreciate the fact that father and mother of the applicant died when he was only one year old and he was looked after by his uncle Shri Deshraj. Learned lawyer for the applicant has also argued that the respondents failed to appreciate the fact that the applicant attained the majority in the year 1988 and thereafter he filed an application for his consideration of appointment on compassionate ground but looking to his indigent circumstances, his application was not considered.

6. On the other hand, the learned lawyer for the respondents have submitted that General Manager has considered the case of the applicant and he did not feel to relax the time limit in the case of the applicant and, therefore, the case of the applicant was rejected and he was communicated by the respondents accordingly. The respondents have also filed Railway Board's circular in this respect. This circular provides that there is five years limit for the appointment of a son or a daughter of the deceased Railway employee on compassionate ground. It is further stated that the General Manager may personally authorise relaxation of five years limit in deserving cases.

7. The father of the applicant died when the applicant was only one year old. His mother also died leaving behind him and the uncle of the applicant has looked after him. The applicant was getting pension but now it is stated by the applicant that he is not getting the pension. In my opinion, the respondents did not consider the indigent circumstances of the applicant and did not appreciate that after the death of his father and mother when he was only one year old, how he was brought up by his uncle and under what circumstances he could pass the High School examination. It was mandatory/necessary on the part of the respondents to consider

the circumstances particularly special circumstances of the applicant on the basis of ^{which} the request of compassionate appointment can be granted or can be rejected. Admittedly, the father of the applicant was working as a Gateman. Generally, the persons of this class are poor and Railway Board has also issued this circular for entertaining the applications for appointment of a son or a daughter or a widow of deceased employee on compassionate ground looking to his special indigent circumstances because the applicant was only one year old at the time of death of his father / mother, he is not supposed to know the procedure, rules and to whom he should approach and how to apply and when to apply, although as per the applicant, he has applied for employment on compassionate ground in the year 1988 but this fact has been denied by the respondents. Even if it is presumed that the applicant did not make an application, even then the circumstances under which he was passing his time that should be taken into consideration and his indigent circumstances should not be over looked. In view of all these facts and circumstances of this case, the case of the applicant deserves to be considered for appointment on compassionate ground. His case should not be thrown out merely on technicalities. Therefore, it will be proper to give direction to the respondents that the case of the applicant for appointment on compassionate ground may be considered.

8. In the circumstances, as mentioned above, the respondents are directed to consider the case of the applicant for appointment on compassionate ground within a period of three months from the date of receipt of a copy of this order. No order as to costs.


MEMBER (J)

/rsd/