

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD.

Allahabad This The 2<sup>nd</sup> Day of May, 2000.

Original Application No. 763 of 1995

CORAM:

Hon'ble Mr. S. Biswas, A.M.

1. K.P. Srivastava Son of Late J.K.Lal  
Resident of Quarter No. 111 Vikash  
Pradhikar Vs. Colony P.O. Basant Nagar,  
Ram Nagar Varanasi.
2. Surendra Kumar Srivastava Son of Sri K.P.  
Srivastava Resident of Quarter No. 111 Vikash  
Pradhikaran Colony, P.O. Basant Nagar,  
Ram Nagar District Varanasi.

(By adv. S.Ram & P.K.Kashayak) ..... Applicants.

VERSUS

1. Union of India through General Manager,  
Eastern Railway Fairlie Place Calcutta.
2. Divisional Railway Manager, Eastern  
Railway, Mughal Sarai.
3. Senior Divisional Electrical Engineer (TRS)  
Eastern Railway Mughal Sarai.
4. Senior Medical Superintendent, Eastern Railway  
Hospital Mughal Sarai.

..... Respondents  
(By Adv. Shri A. Sthalekar)

S. K.

O R D E R

1. The applicant (1) Shri K.P. Srivastava and applicant (2) are respectively father and son, the applicant member (1) retired from service on 31.08.94. when he was working as Assistant Traction Loco Controller at Mughal Sarai. The D.A. seeks direction to the respondents to give compassionate appointment to applicant (2), his son in a Grade D Post as per provision of Railway Board letter dated 30.04.79.
2. Heard the arguments of the rival party advocates.
3. The applicant's case for compassionate appointment of his son, applicant number (2) in a Grade D Railway job is limited to the projection that he was suffering from eye disease in 1991-92, took treatment from private doctor, and Sankar Netralay Madas which declined to treat him on the ground that he was suffering from Macular degeneration which has no treatment in India. On the basis of a certificate on his eye ailment from a private doctor the Medical Superintendent Mughal Sarai who took cognisance of it, referred him to Chief Hospital Superintendent of B.R. Singh Hospital Sealdah on 16.12.93. The latter was requested to look into the case, as the private doctor had declared him unfit and advised rest and the applicant himself wanted to be spared from job on the ground of disability.
4. The Medical Superintendent Mughal Sarai had as per the applicant sent a letter to Senior Divisional Electrical Engineer Mughal Sarai (R-3) on 04.04.94 requesting him to issue 937 form for constitution of Medical Board. But the same was not allegedly issued and the Medical Board was not formed.

S R



5. On 28.06.94 the applicant made a representation to Respondent No. 3 stating that he had become medically unfit due to eye disease and that a job be given to his son on compassionate ground. He has attached a copy of this application dated 28.07.94. Therefore, the respondents have, it is alleged, not issued for G-37 on purpose, to deprive his son a compassionate appointment. His representations dated 23.03.95, 22.07.95 have not been responded to.

6. The respondents counsel has disputed the claim as unjustified, as in the first place, the applicant retired from service with full retirement benefits and pension. He had unauthorisedly absented himself from service from 16.01.92 to 31.08.94. When Respondent No. 4 first came to know about his treatment by Private Doctors, he on his initiative arranged his treatments in B.R. Singh Hospital.

7. The respondents have denied the allegation that G37 form was not issued. Respondent No. 4 had referred the case for issue of G 37 form to Respondent No. 3 and make arrangement for certification of the Board. But the petitioner himself did not turn up for to affix his signature/thumb impression : required for identification.

8. He did not appear before Respondent No. 3 as required for the purpose <sup>showing</sup> ~~proving~~ thereby that he was not interested to face the Medical Board and because of his delaying tactics, the Board did not take place and he retired on 31.08.94.

9. Other <sup>about</sup> allegation ~~about~~ non-payment or less payment of pension etc has also been denied.

S R

10. It is also stated by the respondent's counsel that the B.R. Singh Hospital to which he was referred for treatment has not certified him as medically unfit.

11. The provisions for compassionate appointment are self-contained. Only in cases of death in harness, and medically decategorised employees while serving, but suffering from heart diseases, and declared unfit becomes eligible for seeking compassionate appointment of the dependent. In this case the applicant retired with the full provisional benefit.

12. He wanted to project his case even before retirement to secure a job for his son by taking the plea that he was declared medically unfit due to decay in eye sight by private doctors. The rules dated 30.04.79 are totally silent in respect of a case where the Government employee has retired and enjoying full retirement benefit. The first and foremost contingency for compassionate appointment is financial hardship which is not the case here for a pensioner.

13. Compassionate appointment in case of medically decategorised staff is to be considered only when the serving employee is found medically unfit. Such certificate is to be given by the Railway Medical Board in case of suspected disability and listed ailment to be certified by the Board. It has come on record that the applicant did not himself co-operate in this behalf and got retired in due course. He ought to have opted out of the service before retirement date to become eligible for such a request. He was neither declared medically unfit, nor opt out to retire before the due date of retirement as per the rule.

SR



C

// 5 //

14. In the case of Ram Lakhan Prasad Vs U.O. 1 (O.A. 475/90) Allahabad Bench, the applicant was continuously for two years hospitalised till the last day of his retirement. This case is not materially applicable in the present case as a ruling.

15. In Johri and another Vs. General Manager N.R and another (O.A. 308/93) the applicant was declared to be medically unfit twice- therefore the claim for compassionate appointment of his son was found proper. In this case the applicant was not declared medically unfit by the medical authorities of the department as well by any Board. He retired on due date with full retirement benefits.

16. In view of above, for O.A. fails on merits and hence dismissed without cost.

*S. B. Sin*  
A.M.

/h.k./