

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 1004 OF 95

Allahabad, this the 27th th day of May, 1999.

CORAM : Hon'ble Mr.S.K.Agrawal, J.M.

1. Smt.Janki,
Widow of the Late Batole,
R/o. Vill. Lamayacha
P.O. Chirula,
Distt. Datia (M.P.)

2. Suresh Yadava,
S/o. Late Batole,
R/o. Vill. Lamayacha,
P.O.Chirula,
District Datia (M.P.)

.....Applicants

By Shri M.P.Gupta, Advocate.

Versus

1. The Union of India through the General Manager,
Central Railway, Bombay V.T.
2. The Divisional Railway Manager,
Central Railway, Jhansi.

.....Respondents.

By Sri A.V.Srivastava, Advocate.

ORDER

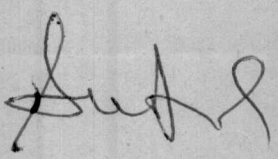
(By Hon'ble Mr.S.K.Agrawal, Member(J))

In this original application prayer of the applicant is to quash the impugned order rejecting the request of the applicant for compassionate appointment and direct the respondents to offer appointment to the applicant No.2 on compassionate grounds.

contd.. /2p

2. The case of the applicant is that the husband of the applicant No.1 and father of the applicant No.2 late Sri Batole was working as Mate under P.W.I. (North Central Railway) Jhansi and died on 24-12-84. It is stated that the deceased was only bread earner in the family and applicants even today have no means of earning. In the year 1988 applicant No.2 submitted an application to the General Manager, Central Rly. Bombay VT requesting to consider the applicant for the appointment on compassionate grounds, thereafter the matter was agitated continuously and ultimately respondents vide order dated 3-6-95 rejected the request of the applicant. It is stated that deceased Batole had died leaving his family in harness, therefore applicant No.2 is entitled to the appointment on compassionate grounds.

3. Counter was filed. In the counter it is stated by the respondents that deceased Batole died on 24-12-84 due to sickness and applicant No.2 was minor at that time. The deceased was working as casual Mate on daily rate wages and he was not conferred temporary status till his death and nothing was paid to the applicants as settlement dues of the deceased after his death. The applicants have earlier filed O.A. in which directions were given to decide the representation of the applicant and thereafter representation of the applicant was decided and communicated to the applicant. It is stated that according to the rules applicant is not entitled to be considered for the appointment on compassionate grounds. Therefore, this O.A. is devoid of any merit and liable to be dismissed.



4. Rejoinder was filed reiterating the facts stated in the O.A.

5. Heard the learned lawyer for the parties and also perused the whole record.

6. In the counter it has been made very specific that applicant was only working as casual Mate on daily rate basis. Applicant failed to establish the fact that deceased Batole was conferred a temporary status and was a MRCL. Learned lawyer for applicants submitted that by operation of law the deceased was conferred temporary status. Therefore refusal to the applicant for appointment on compassionate grounds by the respondents is quite arbitrary and against the rules.

7. On the perusal of the pleadings of the parties it only appears that deceased Batole was daily rated casual labour and not a CPC scale holder. In the counter it has been made very specific that deceased Batole was receiving Rs.9=50p per day as daily wages.

8. The wards of casual labour having temporary status are only entitled to be considered for the appointment on compassionate grounds. In this connection Railway Board letter No.3001 No.E(NG)II/96/RC-I/96 dated 14-3-97 reads as follows :-

"Sub:- Grant of compassionate appointment to the wards of Casual Labours (temporary status) who die in harness. -----

Kindly refer to the instructions contained in Board's letter No. E(NG)II/84/CL/25 dated 31-12-1986 wherein it was laid down that ward of casual labour with temporary status who died

in harness, could be considered for appointment as casual labour (fresh face) as substitute under the personal discretionary powers of the General Manager.

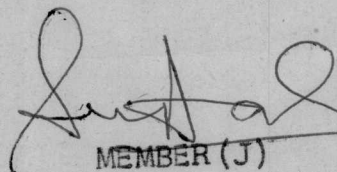
2. These instructions were to be effective from 31-12-86 to 31-12-1988 but were later extended upto 31-12-1991 vide Board's letter No. E(NG)II/84/CL/28 dated 6-11-1989 and still later made applicable on a lasting basis beyond 31-12-1988 vide Board's letter No. E(NG)II/84/CL/28, dated 6-12-90. These orders were, however, not applicable to the cases that occurred prior to 31-12-98.

3. Pursuant to discussions in the PNM Meeting with NFIR held in October, 1996, it has been decided in partial modification of para 5 of letter No. E(NG)II/84/CL/28 dated 31-12-1986 quoted above, that the above dispensation may be extended to cases where death of the casual labour with temporary status had occurred prior to 31-12-1986."

This letter makes it very clear that where a casual labour with temporary status dies in harness the ward of such casual labour will be considered for casual employment on compassionate grounds.

9. In the instant case it is not at all established that deceased Batole was CPC scale holder or acquired temporary status during his life time. Therefore the applicant is not entitled to be considered for the appointment on compassionate grounds.

10. I, therefore, dismiss this O.A. with no order as to costs.


MEMBER (J)

/satya/