

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 222 of 2000

Allahabad this the 16th day of February, 2001

Hon'ble Mr.S. Dayal, Member (A)

1. Awadh Behari Singh S/o Late Ram Chandra Singh, R/o 32/10, Ajit Ganj Colony, Babu Ka Purwa, Kanpur.
2. Km.Sarita Singh D/o Sri Awadh Behari Singh, R/o 32/10 Ajit Ganj Colony, Babu Ka Purwa, Kanpur.

Applicants

By Advocate Shri A.K. Srivastava

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, Allahabad.
4. C.T.F.O. (R.S.O.), Kanpur.

Respondents

By Advocate Shri A.K. Pandey

O R D E R (Oral)

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed for setting aside the order dated 23.7.1996 passed by respondent no.3 and directing the respondents

to consider the case of applicant no.2 for appointment on compassionate ground on a suitable post for which she may be found fit.

2. The case of the applicant no.2 is that applicant no.1-her father was appointed in 1956 as Electric Driver Goods. Applicant no.1 was discharged from service on medical ground by order dated 11/13-7-1990 w.e.f. 13.4.1990. The mother of applicant no.2 stated to be suffering from chronic diseases. The father of applicant no.2 submitted an application through proper channel to respondent no.4 , requesting for appointment of his minor daughter on the date of her majority and the same was forwarded by letter dated 12.8.1990 to respondent no.3. It is claimed that by letter dated 23.7.1996 the respondent no.3 rejected the claim of applicant no.2 for appointment on compassionate ground mentioning there/ⁱⁿ that there was no provision for appointment after 5 years on compassionate ground. It is stated that applicant no.2 was born on 10.12.1979 and had completed her education upto B.A. The applicant no.2 would have reached the age of majority on 09.12.1997. The rejection order before she reached the age of majority on the ground that it was not made within 5 years, is therefore, sought to be cancelled and her compassionate appointment is sought to be considered.

3.

Shri A.K. Srivastava, learned counsel

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for the applicant and Shri A.K. Pandey, learned counsel for the respondents have been heard.

4. Learned counsel for the applicant has shown annexure no.2 which is a copy of letter addressed to D.R.M., Northern Railway, Allahabad by C.T.F.O.(R.S.O.) dated 12.8.1990, which is shown to have been received by Superintendent(R) on 25.8.1990. The first relief claimed by the applicant is valid because the order suffers from lack of application of mind and the ground shown that the applicant no.1 had made a request for compassionate appointment of his daughter after five years of his discharge , is incorrect.

5. Learned counsel for the applicant has also contended that Board's order dated 06.1.1997 (annexure C.A.-1) cannot be applied to the case of the applicants because the order of rejection was passed before the said order was issued. The case of the applicant is covered by order dated 22.11.1994 (annexure A-7 to the O.A.), in which it has been stated that application for appointment must be submitted immediately after the candidate attains the age of majority. The period for submission of such application which was one year, is stated to be in the process of getting raised to two years. One cannot, therefore, say that the application of the applicant is time barred in the context of the said instructions of Railway Board issued in the year 1994.

6. The litmus test for acceptance of application for compassionate appointment is whether the family is in need of such appointment to a dependent on account of being left indigent due to the death or incapacitation of the bread winner. Learned counsel for the applicant has also mentioned that the applicant had been offered appointment as a Shunter but, he did not join the same and remained on leave, and thereafter retired on medical ground. Learned counsel for the respondents is also relied upon the judgment of the Apex Court in 'Sanjay Kumar Vs. State of Bihar and Others (2000) 7 S.C.C.192'. In the said judgment, Government of Bihar had rejected the claim for compassionate appointment as time barred and the Apex Court had ruled that there could not be reservation of a vacancy till such time as the applicant becomes a major after a number of years, unless there are some specific provisions. This judgment would not apply to the facts of this case because of a specific provision in the instructions issued by the Railway Board.

7. However, on the over all consideration of the status of the family and the rejection of the incapacitated employee of the offer for alternate employment, I do not find any ground to direct the respondents for consideration of compassionate appointment. The O.A. is, therefore, dismissed as lacking in merits. No order as to costs.


Member (A)