

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.808/2002

ALLAHABAD THIS THE 12th DAY OF Sept.,2002

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Rajeev Kumar Pandey
Son of Late Shri Nanhey
Resident of Village Nigohi,
Post Office Nigohi, District - Shahjahanpur.

..... Applicant

(By Advocate Shri V.M. Shrama)

Versus

1. U.O.I. through General Manager,
North Eastern Railway,
Head Office, Gorakhpur.
2. D.R.M. (N. E.)
Rail Mandal, Izzatnagar,
Bareilly.
3. Chief Section Engineer,
North Eastern Railway,
Pilibhit.

..... Respondents

(By Advocate Shri K.P. Singh)

O R D E R (oral)

This O.A. has been filed by applicant to challenge the order dated 23.07.2001 whereby his request for compassionate appointment has been rejected and he has sought a direction to the respondents to consider the case of the applicant for compassionate appointment.

2. The brief facts as narrated by the applicant are that his father was working as Mate with the respondents, but he died on 7.10.2000 while in harness. The applicant's mother requested the authorities to appoint her son in place of her husband, who is stated to be High School failed. His case was considered and vide letter dated 23.7.2001, the mother of the applicant was informed that her son cannot be given compassionate appointment as her eldest son was already in Government service and

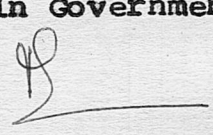


she had 0.209 hectares of land and the employee had already put in 19 years of service at the time of his death, all his children were major and apart from it she has also been given an amount of Rs.118181/-.

3. The applicant has submitted that his eldest brother is a daily wager in class IV, but he is living separately, second brother is illiterate and unemployed. His sister is married to Sri Sushil Kumar and land is unfertile. He has further stated that second brother has three children and they are also dependent on the applicant as they have a joint Hindu family. He has, thus, submitted that he is entitled to be appointed on compassionate grounds.

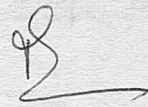
4. I have heard the counsel and perused the pleadings. Before dealing with this case, it would be relevant to quote the view taken by the Hon'ble Supreme Court on the subject. Hon'ble Supreme Court has repeatedly held that compassionate appointment cannot be claimed as a matter of right, nor can be used as a separate mode of appointment for dependants of the deceased, nor can be claimed as a line of succession. The only right the family of the deceased ^{has} is that of consideration and consideration has to be based on the financial condition, responsibilities and the liabilities of the deceased and most important aspect is to see whether the condition of family is so indigent that they need immediate help or they can survive without any help.

5. In 1997 (5) SCC 501, it was held that a policy laid down by the Government regarding compassionate appointment should not be interfered with merely on account of sympathetic considerations and hardship of the person concerned. It was further held that if one son was already in Government service,



the High Court erred in interfering with the denial of Compassionate appointment to other son. The same view has been reiterated in 2001 J.T.(4) SC 73.

6. In this background let us see whether the applicant has made out any case for interference by the Tribunal. A perusal of the applicant's pleadings/^{representation B} and order on his application made before the authorities shows that the family is making contradictory statements e.g. in para 4.8^B of the O.A. they have stated the eldest son is a daily wager and second son being illiterate is unemployed and his family with three children is dependant on the applicant as they have a joint Hindu family and their land is unfertile, but on page 19 of the O.A., the applicant has annexed his own representation dated 22.10.2001 wherein he has admitted that the elder brother is in service, but lives separately. For second brother namely Sri Pramod Kumar, it is stated that he does Kheti-bari and lives separately and it is only the applicant and the widow of the deceased who are living together, who have no source of income. This representation clearly shows that the land is fertile and second son is earning from kheti-bari. The eldest son is already in service and if the applicant's contention is to be believed ^{they} they have a joint Hindu family, ~~therefore~~,^B the contention that brothers are living separately is not true and if they are living separately, the applicant's contention that the children of second brother are also dependant on him is not true. Thus, it is seen that the applicant has made wrong statements before the court, knowingly, obviously with a view to mislead the court and the law is well settled that a person who comes to the court with unclean hands needs no sympathy at all and the case is liable to be thrown out on this ground itself.



7. In any case, since the authorities have already considered the applicant's case and have given the findings that elder son is employed, they have land and all the children were major when the employee died and he had already put in 19 years of service, which facts are admitted by the applicant in his representation at page 19, I am convinced that there is no illegality in the orders passed by the respondents because it cannot be said that the family was in indigent condition. After, all, two sons are married having their families, obviously they would be in a condition to look after themselves as both are working. The daughter of the deceased is already married. She has been given good amount on the death of her husband apart from getting pension and has land also where second son is working, therefore, it definitely cannot be said to be a case of indigent condition. In my considered view, the third son cannot claim the appointment as a matter of right, nor can use his father's death as a step to gain entry in a Government Job. If he is keen he ^{may} ~~might~~ compete with others to get the job otherwise it would amount to ^{framed} ~~framed~~ on those candidates who are eligible and deserving. ^{has} ~~Thus~~, no case/been made out for interference by this Tribunal. The O.A., is accordingly dismissed with no order as to costs.



(Member-J)

Gtiffish/-