

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 28TH DAY OF JULY, 2004

Original Application No.472 of 2003

CORAM:

HON.MR.JUSTICE S.R.SINGH,V.C.

Parvez Akhtar Khan, son of
Late Ali Akhtar Khan, resident
of Mohall Ghasi Katra(North)
Yateem Khana, Gorakhpur.

.. Applicant

(By Adv: shriS.K.Om)

Versus

1. Union of India through
Comptroller & Auditor General
Of India, 10, Bahadur Shah Zafar Marg,
New Delhi.
2. Principal Director of Audit
North Eastern Railway,
Gorakhpur.

.. Respondents

(By Adv: Shri Prashant Mathur)

O R D E R(Oral)

JUSTICE S.R.SINGH,V.C.

Heard Shri S.K.Om learned counsel for the applicant
and Shri Prashant Mathur learned counsel appearing for
the respondents. I have also perused the orders impugned
herein.

The father of the applicant who was employed under
the respondents died in harness on 13.4.1994. The
applicant being minor at that time his mother moved an
application on 16.9.1994 for compassionate appointment in
favour of the applicant on his attaining the age of
majority. On attaining the age of majority the applicant
himself moved an application on 25.7.1999 for
compassionate appointment. The application of the
applicant for compassionate appointment came to be

:: 2 ::

rejected by order dated 11.4.01(Annexure 6) which reads as under:-

No.Admn/1-1/ /2000
Date: 11.4.01

Shri Parvez Akhtar Khan
S/o Late A.A.Khan
Ex.Senior Audit Officer
Mohalla Ghasi Katra(North)
Near Yateem Khana,
Gorakhpur 273001(UP)

Sub: your application dated 23.8.99 for appointment on compassionate ground.

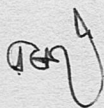
Your application has been carefully considered. As per Government of India's instructions the Concept of compassionate appointment is largely related to the need for minimum assistance to the family of a Govt. servant in order to relieve it from economic distress. Further the request for compassionate appointment is belated or not, is to be decided with reference to the date of death of a Govt. servant and not the age of the applicant at the time of the consideration.

In view of the above the Principal Director of Audit has rejected your application for appointment on compassionate ground.

Sd/
Krishan Singh
Audit Officer/Admn

The applicant preferred a further representation to the higher authority. The representation, however, came to be rejected by order dated 17.1.03 which reads as under:-

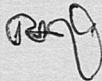
सी.ए.जी. आफिस नई दिल्ली को प्रेषित आपके आवेदन पत्र दिनांक 31.07.2002 के संबंध में आपको सूचित किया जाता है कि आपके अनुरोध को पूर्ण विचारोपरान्त सी.ए.जी. आफिस द्वारा स्वीकार नहीं किया गया है।



A perusal of the order dated 11.4.01 would indicate that the applicant's claim for compassionate appointment has been denied on the ground that compassionate appointment sought for was belated. It is not disputed that prescribed period of limitation for making an application for compassionate appointment was five years. The application moved by the applicant on attaining the age of majority was well within 5 years of the demise of his father. It was, therefore, not open to the Competent Authority to reject the claim of the applicant on the ground that request for compassionate appointment was belated.

Shri S.K.Om, learned counsel for the applicant has further submitted that pursuant to Railway board's Circular No.99/E/RRB/25/19 dated 26.11.1999 the General Managers have been empowered to consider cases of compassionate appointment where requests have been made for the first by son/first daughter within a period of 20 years of the employee's demise subject, ofcourse, to the condition stipulated in the Railway Board's letter No.E/(NG) 11/84-RC-1/26 dated 22.12.1994 read with letter dated 6.10.1995. Shri Prashant Mathur, however, submitted that this circular may not be applicable to the applicant as he is not a railway employee. I don't consider it necessary to go into the question. In my opinion, the application moved by the applicant was well within the stipulated period of 5 years. The order dated 17.1.03 passed by the Senior Audit Officer/Admn being a cryptic one passed without assigning any reason is liable to be quashed.

Before parting I would like to observe that the applicant's claim shall not be rejected solely on the ground



of terminal benefits received by the family on the death of applicant's father. I am supported in my view with the decision taken by the Hon'ble Supreme Court in 'Balbir Kaur Vs Steel Authority of India, 2000 SCW 1745. It may be observed that certain marks are assigned to terminal benefits as well in addition to allocation of marks on various other counts and then over all comparative merit is determined. This does not appear to have been done in this case. In my opinion, both the orders are liable to be quashed.

Accordingly, the original application succeeds. the orders dated 17.1.03 and 11.4.01 are quashed. The Competent Authority, the Principal Director of Audit, party respondent no.2 is directed to pass a reasoned order afresh in respect of the applicant for compassionate appointment in accordance with law within a period of two months from the date of receipt of a copy of this order. There will be no order as to costs.


VICE CHAIRMAN

Dated:28.7.04

Uv/