

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Original Application No.534 of 2003.

Allahabad, this the 2nd day of December, 2004.

Hon'ble Mr. S.C. Chaube, A.M.

Musafir Ram,  
aged about 37 years,  
S/o Late Ram Bachan Ram,  
R/o Village & Post Yuvrajpur  
Distt. Ghazipur, U.P. ....Applicant.

(By Advocate : Shri M.P. Singh  
Shri Mahendra Pratap Singh

Versus

1. Union of India,  
through General Manager,  
East Central Railway,  
Hazipur.
2. The Divisional Railway Manager,  
East Central Railway, Mughalsarai.
3. The Sr. Divisional Personnel Officer,  
East Central Railway, Mughalsarai. ....Respondents.

(By Advocate : Shri K.P. Singh)

O R D E R

By Hon'ble Mr. S.C. Chaube, A.M. :

The applicant has impugned order dated 23.01.2003, by which the Headquarter of Divisional Railway Manager, East Central Railway, Mughalsarai has rejected the request for appointment on compassionate ground.

2. Briefly, the facts are that the father of the applicant Late Shri Ram Bachan Ram was appointed as Fitter,

*S.C. Chaube*

.....2.

Ticket No.525, under Sr. Section Enginner (C&W)-II/MGS.

He was a permanent employee of the department and had completed more than 30 years of the service under the opposite parties. After prolonged illness, he died on 17.5.1999, at Railway Hospital leaving behind his widow, Two sons and a daughter. Vide application dated 3.6.1999, the mother of the applicant requested for appointment of her son Musafir Ram, the applicant, on compassionate ground in the department in place of his late father. It has been contended by the applicant that the opposite party vide his letter dated 25.6.1999 asked the mother of the applicant to furnish certain documents, which have been furnished by her. Further, vide letter dated 20-01-2000, the opposite parties asked the applicant to furnish an affidavit stating that in case of his appointment on compassionate ground he will maintain his mother through out his life. Accordingly, an affidavit to this effect was furnished by the applicant to the opposite party No.2. Vide letter dated 13.11.2000 the applicant was intimated that his case for appointment on compassionate ground has not been found fit. Aggrieved by this order, the applicant filed Original Application No.1472 of 2002 before Central Administrative Tribunal, which/quashed the order dated 13.11.2000 by its order dated 10.12.2002. He further submitted a representation on 2.1.2003 requesting for appointment on compassionate ground. However, after receiving the representation of the applicant the opposite parties have passed the impugned order which according to the applicant is patently illegal, unlawful and not at all sustainable in the eyes of law. It is also stated that one of the sons of the widow is ~~concerned~~ ~~now~~ living separately with his family much earlier to the death of Ram Bachan Ram. Further, the family is suffering from severe financial crisis as a lot of money has been

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spent on the medical treatment of the late father and the family is <sup>in</sup> stringent financial difficulties <sup>to</sup> live on the amount of pension being received by the mother.

3. Learned counsel for the applicant has cited following decisions in support of his contention :-

- i) State Bank of India and Ors. Vs. Ram Piyarey Adult 2001 (2) E.S.C. (Alld) 876
- ii) Ram Piyarey Vs. State Bank of India (2001) 2 UPLBEC 1575
- iii) Smt. Padma Pathak Vs. M.D., P.N.B. 2003 (21) LCD 531
- iv) Chief General Manager, State Bank of India, Lucknow Vs. Durgesh Kumar Tiwari, (2004) 3 UPLBEC 2244.

It has been held <sup>in</sup> that the case of State Bank of India and Others Vs. Ram Piyarey Adult that the receipt of family pension by the widow and a sum of Rs.1.42 lacs paid to widow after deducting the loan cannot be taken to be a good ground for rejecting the case for appointment on compassionate ground. The Hon'ble High Court further observed that if the plea of the Bank is accepted then no appointment can be made on compassionate ground and the scheme of the Bank shall have no meaning. Further, in the case of Ram Piyarey Vs. State Bank of India and others, the Hon'ble High Court held that the family of the deceased consists of widow, two sons and four daughters, out of which two are unmarried. The opposite parties while rejecting the application for providing employment on compassionate ground failed to consider all these aspects of the matter. The payment of family pension and the dues of the deceased can not be a ground for rejecting the application lastly for appointment on compassionate ground and in the case of Padma Pathak Vs. M.D., P.N.B., it was held again by the Hon'ble High Court that deceased left behind a residential house worth Rs. 2 lacs and an amount of pension Rs.3093/- per month being paid to the widow did not disentitle the widow of her compassionate appointment. In yet another

case of Chief General Manager, State Bank of India, Lucknow  
/Mr/ Vs. Durgesh Kumar Tiwari, in which the request for  
compassionate appointment was rejected on the ground that  
the deceased is getting family pension, which in the  
instant case was reduced from Rs.3421/- per month to  
Rs.1620/- per month. Such amount is insufficient to  
support family in these days when cost of living and  
cost commodities is rising day-by-day. Accordingly,  
the direction for giving the appointment deserves to be  
accepted by the Bank.

4. Learned counsel for the respondents has contended  
that there is no liability of any minor son or un-married  
daughter of the deceased employee. Further, the widow has  
already been sanctioned family pension, which is considered  
sufficient for her upkeep. Besides, all the settlement dues  
including DCRG, leave salary have already been paid, which  
happens to be a reasonably good amount, enabling the widow  
to lead a decent life. Learned counsel for the respondents  
further contended that the widow also owns a house, left  
by the deceased and one of her two sons is already  
employed in the Government of U.P. It is however, not  
clear from the counter affidavit the exact amount of post-  
death ~~the~~ retiral benefits paid to the widow of Shri Ram  
Bachan Ram in view of the judgment of the Hon'ble High  
Court (supra).

5. It is my considered view that the ends of justice  
will be met, if another representation is filed by the  
applicant before respondent No.2 i.e. Divisional Railway  
Manager, East Central Railway, Mughalsarai, who shall decide  
the representation within a stipulated period. Accordingly,  
the respondent No.2 i.e. Divisional Railway Manager, East  
Central Railway, Mughalsarai is directed to re-consider  
and decide the representation of the applicant in the light

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of the judgments of Hon'ble High Court cited above, within a period of three months from the date of receipt of representation filed by the applicant alongwith a copy of this order and pass a detailed and speaking order under intimation to the applicant.

6. The O.A. is accordingly disposed of with the aforesaid directions. No order as to costs.

*S. Shank*  
Member (A)

RKM/