

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

Original Application No. 1041 of 2003.

ALLAHABAD THIS THE 1st DAY OF March, 2006.

Hon'ble Mr. A.K. Singh, Member-A

1. Brindavan aged about 60 years son of Shri Ram Nath resident of Pulliya No.9, Jhansi.
 2. Balwir Singh aged about 22 years son of Shri Brindavan R/o Pulliya No.9, Jhansi.
-Applicants.

(By Advocate: Sri R.K. Nigam)

Versus

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.

.....Respondents.

(By Advocate: Sri A.K. Gaur)

O R D E R

The short controversy involved in O.A. NO.1041/03 whether Sri Brindawan (applicant NO.1) in this case who is a medically decategorised Railway Servant is entitled for appointment of his son Sri Balwir Singh (applicant NO.2) on compassionate grounds.

2. The brief facts in this case are that the applicant No.1 Brindavan was found unfit for A-1 as Driver Special 'A' and fit for C-1 with glasses vide Senior D.M.O, Jhansi medical certificate No. 462262 dated 10.7.1998. The Screening Committee had called the applicant NO.1 on 21.9.1998 and settled him up vide letter dated 14.10.1998

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issued by Divisional Railway Manager, North Central Railway, Jhansi. He was also not provided any alternative employment as per para 1301 & 1302 (i) of Indian Railway Establishment Manual. The applicant NO.1, however, made an application before the Authorities on 16.2.1999 for appointment of his second son i.e. applicant NO.2 for appointment on compassionate grounds. A Welfare Inspector was deputed by the Authorities to verify the facts mentioned in aforesaid application, as provided under the Rules. The said Welfare Inspector on verification of facts submitted a report to respondents that the applicant had already completed 56 years of age with additional 5 days and that only decategorised employee upto the age of 55 above were entitled to the aforesaid benefit and since the applicant had exceeded the age limit of 55 years, he was not entitled such a consideration.

3. According to the applicant, their representations have not so far been decided by the respondent No. 2 i.e. Divisional Railway Manager, North Central Railway, Jhansi. Accordingly, they pray for necessary directions to respondent No.2 to consider the case of appointment of his son Sri Balwir Singh (Applicant No.1) on compassionate ground within a reasonable time frame.

3. The respondents, on the other hand, have opposed the O.A. in question. They have stated that the applicant NO.1 is medically decategorised and was found medically unfit as A-1 Driver Special and fit for C-1 with glasses vide Senior D.M.O Jhansi letter dated 10.7.98. Accordingly, he was called by the Screening Committee which ultimately settled him up. The respondents also confirm that the applicant has filed an application for appointment of his second son on compassionate grounds on 16.2.1999. However, on verification of relevant facts by Railway Welfare Inspector, he was found to be overage and accordingly his

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case was not covered by the instructions of Railway Board issued on the subject. They further submit that the age of applicant should not have exceeded to 55 years as per the relevant instruction "while he had already completed 56 years and 5 days". Accordingly, respondents pray for dismissal of the O.A.

4. I have given my anxious consideration to the submissions made by the learned counsel on behalf of applicant as well as respondents.

5. I find that the instruction of Railway Board contained in the supplementary Circular 45 to Master Circular NO.16 in the case, of medical decategorised Railway servants reads as under:-

"R.B.E. No.193/2000

(Supplementary Circular No.45 to Master Circular No.16)

Subject : Appointments on compassionate ground - Cases of Medical Decategorisation.

(No. E(NG)11-95/RC-1/94 dated 10.11.2000)

One of the Zonal Railways has sought boards clarification as to whether requests received for compassionate appointment in case of medically decategorised employees who choose to retire voluntarily on medical ground, before issuance of the board's letter dated 18.1.2000 should be entertained.

The matter has been considered by the Board and it has been decided that, in all these cases, in which an employee, declared as medically decategorised before the issuance of Board's letter dated 29.4.99, sought voluntary retirement but he has not yet been given alternative appointment nor he has been adjusted against the supernumerary post, the facilities of appointment on compassionate grounds may be extended to one ward.

This also disposes of SE Railways letter NO.P/Cump/Policy/Pt-IV/Loose/907 dated 28.4.2000."

From the above, it is clear that the applicant as medically decategorised Railway servant and one who was not

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provided any alternative employment was entitled for appointment of one ward/dependent on compassionate grounds.

6. I also find that the only ground on which the case of the applicant has not received its due consideration from the respondents in view of a minor technicality regarding age of the applicant at the time he was settled by the Screening Committee. In this regard, I find that the instructions contained in the Railway Board No.797-E/NCR/CG/POLICY/2005 Dated; 13.01.2005 inter alia reads as under:-

"NORTH CENTRAL RAILWAY.

**Headquarters office
Allahabad**

No.797-E/NCR/CG/POLICY/2005

Dated; 13.01.2005

**DRM/JHS, ALD & AGC
CWM/JHS & RSK-STL
DY. CEO/GWL, ALD, CNB
DY. CEE(C)/ALD, CNB
DY. CSTE (C)/ALD.**

Sub:- Appointment on compassionate ground

**Instructions issued vide Board's letter NO. (NG)
III/78/RC/1 dated 3.9.1983 inter alia reads as under:**

"If the employee has less than three years of service before superannuation (i.e. he is above the age of 55 years) at the time of decision is taken, the personal approval of the General Manager has to be obtained before the offer of appointment on compassionate grounds, is made".

7. The applicant was above the age of 55 years when he submitted the application of his dependent second son for appointment on compassionate grounds. His case is clearly covered by the Board's Circular No.797-E/NCR/CG/POLICY/2005 dated; 13.01.2005. Hence, personal approval of General Manager should have been taken in time and offer of appointment extended to his dependent son who is applicant NO.2 in this case. The case could also have been considered in light of the fact that the upper age limit for

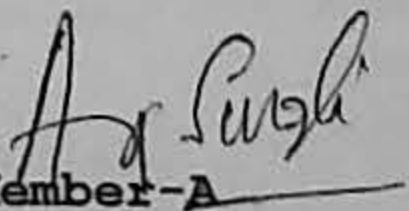
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superannuation of employees which included the applicant at the material time was raised to 60 years from the earlier 58 years. Apart from this, there are four other grounds on the basis of which the case of the applicant merits a favourable consideration.

- (a) In the first place, he was retired four years earlier before the date of his actual retirement. This abrupt end of his service career consequent to decategorisation must have caused financial hardship to the applicant at the material time.
- (b) In the second place, respondents must remember that he incurred the disability, due to onerous and strenuous nature of duties in the service of Railways.
- (c) In the third place, the applicant at Sl. NO.2 was not found ineligible on any account for appointment for compassionate grounds at the time of verification of facts (on their representation) by the Welfare Inspector
- (d) The applicant NO.1 who was medically decategorised was also not provided any alternative employment as per Rule 1301 and 1304 A (i) & (ii) of Indian Railway Establishment Manual. In view of the above, respondents are directed to overlook the technicalities relating to age of the applicant at the material time when he submitted his representation, and to consider his case afresh on compassionate grounds, in view of the detailed reasons recorded above.

8. The O.A. is consequently allowed.

No costs.


Member-A