

(7)

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR.A.K. GAUR , MEMBER (J).

Original Application Number. 367 OF 2007.

ALLAHABAD this the 19th day of *September, 2008.*

Parvez Akhtar Khan, Son of Late Ali Akhtar Khan, Resident of Mohalla Ghasi Katra (North), Yateem Khana, Gorakhpur.

.....Applicant.
VE R S U S

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

.....Respondents

Advocate for the applicant: Sri S.K. Om

Advocate for the Respondents : Sri Prashant Mathur

O R D E R

Through the instant O.A, the applicant has prayed for quashing of the order dated 29.12.2006 passed by respondent No. 2 coupled with prayer for a direction to the respondent to appoint the applicant on any suitable post on compassionate basis.

2. According to the applicant, his father Late Ali Akhtar Khan died on 13.07.1994 while in service. The applicant being minor at that time, his mother made an application dated 16.09.1994 requesting the respondents to grant compassionate appointment in favour of the applicant on his attaining the age of majority. After attaining majority,

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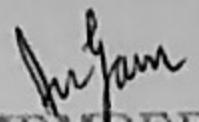
the applicant made application on 25.07.1999 for appointment on compassionate grounds. Since the request of the applicant was rejected by the respondents vide order dated 11.04.2001, the applicant filed O.A No. 472/03 (Parvez Akhtar Khan Vs. U.O.I. & Ors.), which was finally disposed vide judgment dated 28.07.2004 with direction to the respondents to consider and decide the case of the applicant by a reasoned and speaking order within two months. While disposing of the said O.A this Tribunal clearly observed that respondents will not reject the request of the applicant on the ground of terminal benefits received by the family of the petitioner on the death of his father. It has also been observed in the said judgment that in view of the decision taken by the Hon'ble Supreme Court in 'Balbir Kaur Vs. Steel Authority of India', 2000 SCW 1745, 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. Learned counsel further contended that neither marks have been allotted to the applicant on various ground nor proper consideration has been done by the respondents.

3. On the other hand learned counsel for the respondents has vehemently argued that the claim of the applicant is highly belated. In support of his contentions, he has placed reliance on 2005 SCC (L&S) 357. Learned counsel for the respondents has further contended that family of the deceased employee has already survived for considerable period of time. The family details has already been mentioned in the impugned order dated 29.12.2006.

4. Having heard learned counsel for the parties, I am satisfied that this Tribunal in judgment rendered in O.A No. 472/03 (referred to above)

has discussed the case of Balbir Kaur in order to buttress the contention that the retirement benefits is not substituted for compassionate appointment. In the latest Supreme Court judgment, it has categorically been held that retirement benefit shall be taken into consideration while granting appointment on compassionate appointment. It is also settled principle of law that once the family survived for long period, no appointment on compassionate grounds should be granted. In the present case, the father of the applicant died in 1994. family has survived for period of more than 10 years. In the facts and circumstances of the case, I find no good ground to interfere with the impugned order dated 29.12.2006, passed by the respondents. The O.A is accordingly dismissed.

5. There will be no order as to costs.


MEMBER-J.

/Anand/