

open Court
~~RESERVED~~

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

**HON'BLE MR. A. K. GAUR, MEMBER (J).
HON'BLE MR. D. C. LAKHA, MEMBER (A).**

ALLAHABAD this the 05th day of **November**, 2009

Original Application Number. 571 OF 2007

Ashok Kumar Alias Shiv Kumar, Aged about 37 years, S/o
Late Shri Sita Ram, R/o Village- Nizampur Gaudiyana,
P.O. Sadar, District- Gorakhpur.

.....Applicant.

VERSUS

1. Union of India through the General Manager, N.E. Railway,
Gorakhpur- 273012.
2. The Chief Personnel Officer, N.E. Railway, Gorakhpur.
3. The Chief Commercial Manager, N.E. Railway, Gorakhpur

.....Respondents

Advocate for the applicant: Sri Rakesh Verma

Advocate for the Respondents: Sri S.K. Anwar

ORDER

We have heard Sri R. Verma, learned counsel for the applicant and
Sri S.K. Anwar, learned counsel for the respondents.

2. Learned counsel for the respondents invited our attention to the
order dated 16.08.2002/Annexure A-I of O.A passed by the competent
authority. A bare perusal of the order dated 16.08.2002 would reveal
that the competent authority has very clearly observed that that
compassionate appointment is given to a person to support the

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dependent family members of the deceased employee. In the instant case, the employee died on 11.06.1990 while in Railway service and wife of the deceased employee died 19 years ago. It appears that no dependent person in the family and the applicant was more than 34 years old in the year 2002. Learned counsel for the respondents placed reliance on judgment of Apex Court in **Umesh Kumar Nagpal Vs. State of Haryana and others - JT 1994(3) SC 525** and submitted that appointment on compassionate grounds can be considered only if the family is in indigent circumstances and not as a matter of right, which can be executed at any time in future. In the said judgment, Hon'ble Apex Court has further held that the compassionate appointment cannot be granted after lapse of a reasonable period. Learned counsel for the respondents also placed reliance on a decision rendered by the Hon'ble Supreme Court reported in **2008 (2)ESC 273 (SC) - Mumtaj Yunus Mulani Vs. State of Maharashtra & Ors**, in which Hon'ble Apex Court has held as under: -

"it has been held that since 12 years have been passed and the appellant's children have become major, she cannot claim any appointment at this stage."

3. We have heard rival contentions and perused the pleadings as well.
4. Having heard learned counsel for the parties, we are firmly of the opinion that the deceased employee, died on 11.06.1990 and the family has survived during this period. In view of the decisions rendered by Hon'ble Supreme Court in **M.T. Latheesh's case reported in 2006 (7) SCC 350** as well as in the case of **State of J&K and Ors. Vs. Sajad Ahmed Mir (2006)5 SCC 766** and **2007(1) SCC (L&S) 668, National Institute of Technology Vs. Manoj Kumar Singh**, the appointment on

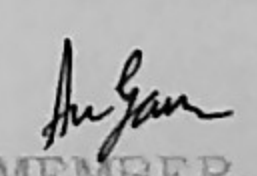
compassionate ground cannot be granted to the applicant after lapse of sufficient time of the death of an employee. As per the decision of Hon'ble Apex Court rendered in State of J&K (supra), in which it has been held that 'once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Art. 14 of the Constitution'.

(Underlined to lay emphasis)

5. In view of the aforesaid observation and law laid down by Apex Court, the applicant has failed to make out any case for interference. Accordingly the O.A is dismissed being devoid of merit.

6. There will be no order as to costs.


MEMBER- A.


MEMBER- J.

/Anand/