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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL

~~PRINCIPAL BENCH, DELHI~~

Ahmedabad Bench, Ahmedabad

O.A No. 216 of 1988
~~XXXXX~~

DATE OF DECISION 6.3.1991

Sunendra N. Desai Petitioner

Mr. R.J. Oza Advocate for the Petitioner (s)

Versus

Union of India & Anr. Respondent

Mr. N.S. Shevde Advocate for the Respondent(s)

CORAM .

The Hon'ble Mr. P.H. Trivedi Vice Chairman

The Hon'ble Mr. S. Santhanakrishnan Judicial Member

JUDGMENT

(6)

.. Petitioner

Surendra N. Desai,
retired Boiler Chargeman,
Quarter No. 421/C,
Railway Colony,
Nawa Yard,
Baroda.
(Advocate-Mr. R.J. Oza)

Versus

1. Union of India,
Through, General Manager,
W. Rly., Churchgate,
Bombay.
2. Divisional Railway Manager,
Western Railway,
Baroda Division,
Baroda.

.. Respondents

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

Hon'ble Mr. S. Santhana-
krishnan .. Judicial Member

O.A. No. 216 of 1988

O R A L - O R D E R

Date : 6.3.1991

Per : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

Heard learned advocates Mr. R.J. Oza and
Mr. N.S. Shevde, for the petitioner and respondents
respectively. In this case, the petitioner under
section 19 of the Administrative Tribunals Act, 1985
prays for his son's appointment on compassionate
ground and relies upon instructions at Annexure A/5
sub para (iv) (page 33) which reads as under :

"(iv)When Railway employees become crippled
while in service or develop serious ailments
like heart diseases, cancer etc, or otherwise
medically decategorised for the job, they
are holding and no alternative job of the
same emoluments can be offered to them."

The petitioner was medically decategorised

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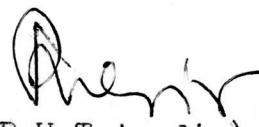
on 25.11.1985 from the post of Boiler Chargeman in the pay scale Rs. 425-700 and categorised in class C-2 from B-1 and the post of Senior Clerk in the pay scale Rs. 330-580 was offered to him but on the ground that that post carries lesser pay scale of the post from which he was decategorised and desirous of placement ^{on} his claim for suitable alternative post of the same pay scale, the petitioner then did not ~~acceptance~~ consider ~~expectance~~ of such a post. Thereafter, the petitioner has been interviewed several times on 3.2.1986, on 21.3.1986, on 25.4.1986 and on 26.5.1986, ^{but} no suitable post was offered to him. It is not clear why this was so because the post in which category C-2 can be fitted are ascertainable and the petitioner having been called for interview presumably satisfied qualifications required for ~~them~~. However, the petitioner, thereafter, made a representation on 25.4.1986 which was followed by another representation on 30.4.1987. It is not clear whether the petitioner was interviewed for the post of pay scale of 425-700 or whether the post of lower pay scale was offered to him or whether he was even asked about it. The petitioner retired in January, 1987 on ~~superannuation~~ ^{superannuation} and he is now before us for compassionate treatment for appointment of his son. The respondents have stated that had the petitioner voluntarily retired and sought appointment for his son that might have been considered. They are also afraid that if on superannuation the petitioner's son is appointed on compassionate ground it will set ~~up~~ a precedent as numerous applications of this nature would follow.

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2. We have considered the objection and difficulty raised by the respondents' learned advocate. It is not clear, however, from the record whether the petitioner was offered, after his reversion on the post of Senior Clerk, any other post in lower scale. It is also not clear whether the petitioner was definitely informed that if he voluntarily retires on decategorisation, his son would be entitled to favourable consideration for suitable post. The petitioner's case therefore, ^Q threw up the situation in which from 30.12.1985 to the date of his retirement no suitable post of even a lower pay scale was offered to him. We have no evidence that each time the interview ^{WMS} held such a post was offered and in terms rejected by the petitioner. This would be a favourable ~~element~~ ^{WMS} ~~element~~ in the case of the petitioner for distinguishing his case from that of others. The petitioner's application on behalf of his son has not been ~~firmly~~ ^{firmly} rejected.

3. In the light of the above facts and circumstances, we are unable to say that the petitioner has satisfied us regarding the basis of his claim as a matter of right but having regard to the petitioner's interview ^{which were} ~~was~~ not resulted in a specific offer for a post and now that he has retired on ^{unpermitted} ~~decategorisation~~, we direct that the petitioner's son's application for a suitable job be given sympathetic consideration subject to his suitability and qualifications provided such a representation is made within 15 days of the date of this order. No order as to costs.


(S. Santhanakrishnan)
Judicial Member


(P H Trivedi)
Vice Chairman