

Appoint
on Compa
Ground (No)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 283 of 1989
TAX NO.

DATE OF DECISION 4.2.1992

Shri Harshad D. Shukla Petitioner

Shri B.B. Gogia Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt : Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal? ✗

Harshad D. Shukla,
C/o. B.P. Raval,
P.H.C. Quarters,
Vadali,
Junagarh.

.. Applicant

Versus

1. Union of India,
Through :
General Manager, W. Rly.,
Churchgate,
Bombay - 400 020.
2. Divisional Railway Manager,
W. Rly., Rajkot Division,
Kothi Compound,
Rajkot.

.. Respondents

O.A. No. 283 of 1989

O R A L - J U D G M E N T

Present : Mr. B.B. Gogia, learned advocate
for the applicant
Mr. B.R. Kyada, learned advocate
for the respondents.

Dated : 4.2.1992

Per : Hon'ble Mr. R.C. Bhatt .. Member (J)

The applicant who is the son of one deceased
Dinkerrai G. Shukla, has filed this application
under section 19 of the Administrative Tribunals
Act, 1985 seeking relief of his appointment on
compassionate ground. It is alleged by the applicant
in his application that his father late Dinkerrai
G. Shukla who was employed as Electric Fitter
under respondent No. 2 Railway, died in harness
on 6th August, 1971 and at that time the applicant

was aged 6 years of old. It is alleged by him that after completing 18 years, the applicant made application in the year 1983 requesting the Railway administration to consider his case for employment. It is the case of the applicant that the respondents sent a Welfare Inspector to collect information about the applicant. The applicant has produced at Annexure A-1 the prescribed form ~~which requires to fill in for~~ ^{to be filled} a person who wants a compassionate appointment. Thereafter, the applicant on 11th December, 1984 made application for appointment on compassionate ground vide Annexure A-2 stating therein that he being the eldest child, it was his moral duty to maintain his widow mother, two younger sisters and one younger brother and that he could not study beyond standard ^{VIII} ~~(eight)~~ as the financial condition of his family did not permit him to make further study. It is the case of the applicant that the request for compassionate appointment should have been granted by the respondents as per the Western Railway's letter Annexure A-3. The applicant has also produced a xerox copy of the memorandum Annexure A-4 in the case of one Yagnadutta M. Desai.

2. The respondents have resisted the application by filing reply contending that the application was

(b)

made by the applicant about 5 years after the death of the applicant's father. The respondents have produced at Annexure R-1 a reply dated 6th October, 1983 sent to the applicant stating therein that as the application is filed 5 years after the death of the deceased Railway servant, the application was time barred. The respondents have also produced at Annexure R-2 the Railway Board's letter dt. 30th April, 1979 on the subject of appointment on compassionate ground in which it is mentioned that if the wife of the employee cannot take up employment and the son/daughter is minor, the case may be kept pending till the son/daughter becomes major. The respondents have contended that the daughter of the deceased, one Sarojben was 13 years old at the time of death of the employee, and she could have applied for appointment on compassionate ground immediately on attaining the age of 18 years which is not done. It is contended that the Railway Board policy letter referred to by the applicant in para 4 of the application viz. letter dt. 20th May, 1985/3rd June, 1985 cannot be given retrospective effect.

3. I have heard the learned advocates of the parties. The policy of the Railway to give appointment to the dependent of the deceased Railway servant died in harness. No technical view should

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be taken which puts the dependents of the deceased Railway servant in ~~more~~ hardships than they face at the time of the death of the concerned employee. The eldest daughter of the deceased employee had not applied for appointment on compassionate ground but that itself should not be the criteria to reject the applicant's application. The respondents should consider the case of the dependent praying for appointment on compassionate ground even if there is delay in making application provided the authority concerned is satisfied that the case of the dependent applying for such post is of extreme or ~~undue~~ hardship. It would be in the fitness of the things, having regard to the facts of this case, that the respondents should consider the case of the appointment of the applicant on compassionate ground having regard to the documents Annexure A-1 which was the prescribed form filled in by the applicant and his mother and A-2 the application made by the applicant dt. 11th December, 1984 for appointment on compassionate ground. The applicant has studied upto standard ~~8~~ ^{VIII} as appears from his Application Annexure A-2. Hence the following order.

O R D E R

The application is partially allowed. The ~~Empowered~~ respondent No. 2 or his delegatee to decide the

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question of appointment of the dependent of the Railway servant died in harness on compassionate ground, to consider the case of the applicant for the appointment on compassionate ground in a post suitable as per the educational qualification of the applicant as per the rules applicable to the dependent in the matter of educational qualification in 1983-84. The respondents to decide the question of appointment of the applicant within four months from the date of receipt of the judgment in this case. The case is disposed of. No order as to costs.

Renzil

(R C Bhatt)
Member(J)

*Mogera