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Order dated 20.11.2001

Heard Shri T.Praharaj, on behalf of learned counsel for the petitioner and Shri B. Pal, learned senior counsel appearing for the respondents.

In this O.A. the petitioner has prayed for direction to respondents to consider his case and to appoint him under Rehabilitation Assistance Scheme.

The case of the applicant is that his father was working as C.P.C. Gangman from 24.5.1976. Respondents have mentioned that his father was originally appointed in 1966 as temporary casual Gangman on daily rated basis and he acquired Temporary Status on 24.5.1976. Applicant has stated that in the year 1982 his father suffered from T.B and was admitted in S.C.B.Medical College for treatment and prior intimation to that effect was given to the departmental authorities. On 15.1.1984 while under treatment his father left home without any information to the relatives. After searching him for three years, a missing report was lodged before the Officer-in-Charge, Dhenkanal Police Station on 10.7.1987. Thereafter the mother of the applicant wrote to the respondents for release of dues of her husband and to provide employment to the applicant, but without any result. Ultimately the applicant's mother was informed in letter dated 6.7.1990 that that the services of her husband had since ~~been~~ ceased to exist w.e.f. 11.7.1983. This letter is annexed by the applicant at Annexure-1. Thereafter the mother of the applicant filed representation to release the dues of her husband and also to give compassionate appointment to the applicant, who by that time ^{had} appeared in ~~Qxx~~ +2 Commerce and had passed H.S.C. Examination in 2nd Division. But so far no favourable consideration has been shown in favour of the applicant. Applicant has stated that his family is left in indigent circumstances. It is also submitted

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that whereabouts of the applicant's father is not known for the last seven years and therefore, he must be deemed to have been dead for all purposes and accordingly the applicant is entitled to be considered for appointment on compassionate ground. In the context of the above the applicant has come up with the prayers referred to above.

Respondents in their counter have stated that the applicant's father one Arjun, ~~son of Bhagabak~~ reported sick and remained in the sick list on the basis of a medical certificate granted by a Private Medical Practitioner for the period from 11.1.1982 to 29.10.1982. He continued to remain in the sick list of Railway Medical Doctor from 20.10.1982 to 8.2.1983, whereafter he was discharged from Railway Doctors' Sick list, as he did not turn up for further treatment. Applicant's father again reported sick on the basis of Dictor's Certificate from 9.2.1983 to 10.7.1983. The total period on which the applicant's father remained in the sick list is from 11.1.1982 to 10.7.1983 as he was suffering from T.B. Under the rules, which is at Annexure-R/2 ~~concession of~~ Extraordinary Leave can be given upto 18 months ~~and~~ to a person suffering from T.B. Respondents have stated that accordingly 18 months Extraordinary Leave was granted to the applicant's father. But after expiry of this period of 18 months he did not report to duty and remained absent from 11.7.1983, without any medical certificate. The Rules enclosed at Annexure-R/2 provides that when the maximum period of leave is granted and thereafter the railway servant does not report for duty, he is deemed to have been ceased ^{to be} in Railway service and his service stands terminated. Respondents have stated that accordingly the services of the applicant's father stood terminated on 11.7.1983 and therefore, the applicant is not entitled to appointment on compassionate ground. On the above grounds respondents have opposed the

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the prayer of the applicant.

I have considered the pleadings of the rival parties carefully. Under the rules, which are enclosed by the respondents to their counter, the maximum period of 18 months Extraordinary Leave was granted to the applicant's father. The submission of the respondents is that after expiry of this period of 18 months EL he did not report for duty has not been denied by the applicant through any rejoinder. From this it is clear that on expiry of the period of 18 months of Extraordinary Leave his father ^{for} ~~did not report~~ ^{for} duty. This is also borne out by the averments by the applicant himself in the O.A. that on 15.1.1984 while under treatment his father left home without any information and after searching him for three years, a missing report was lodged before the Officer-in-Charge, Dhenkanal P.S. In view of the above fact ^{services of} the ~~the~~ applicant's father ^{rightly} ~~stood~~ terminated on expiry ^{of} ~~of the~~ period of 18 months E.L. Compassionate appointment is available only to wards of ~~of the~~ railway employees, who die in harness leaving the families in distressed condition and/or on the ground of retirement on invalidation. As the applicant's father ceased to be in railway service from 11.7.1983, the applicant cannot claim for appointment on compassionate ground.

In view of the discussions held above I hold that the applicant is not entitled to any of the reliefs prayed for in this O.A. which is accordingly ~~disposed of~~ but without any order as to costs.

It is submitted by Shri Praharaj that because of illness and subsequent disappearance of applicant's father, the family is in indigent condition and that no terminal benefits have yet been paid to the applicant's mother. These two assertions in the O.A. have not been denied by the respondents in their counter. In consideration of this, I direct that terminal benefits, if any, payable to the applicant's father shall be paid to the applicant's mother

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within a period of four months from the date of receipt of copies of this order. The above dues if any, shall be paid to the applicant's mother strictly in accordance with rules. It is also ordered that in case the applicant applies for any post his case should be considered ^{on merits} along with others strictly in terms of recruitment rules.

S. M. N. S. S.
VICE-CHAIRMAN
20/11/2001

copy of
the order
of 20.11.01 given
to the both
counsel.

for
21/11

R. M. S.
29/11
S.O