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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 359 OF 1999
Cuttack, this the 22nd day of November, 2000

Gopal Krushna Jena

Applicant

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*

2. Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not? *No*

(G.NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
Somnath Som
22.11.2000

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....
Gopal Krushna Jena, aged 19 years,
son of Sri Swapana Jena, resident of Belagan, P.O-Kuladiha,
Dist.Balasore,orissa
Applicant

Advocate for applicant -Mr.Subrat Ghosh

Vrs.

1. Union of India, represented by General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. South Eastern Railway, represented by Divisional Railway Manager, South Eastern Railway, Kharagpur
.....
Respondents

Advocates for respondents - M/s S.Roy, A.A.Khan

.....
ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this Application the petitioner is the son of a Railway employee who died in harness. He has prayed for compassionate appointment under the respondents. The respondents have filed counter opposing the prayer of the applicant, and the applicant has filed rejoinder. For the purpose of considering this petition, it is not necessary to go into too many facts of this case.

S. J. M.

2. The admitted position is that the petitioner's father Swapana Jena was working as a Gangman under Permanent Way Inspector, Jaleswar and he passed away while in service on 23.10.1985 leaving behind his widow and an unmarried daughter aged 13 years who was given in

marriage in 1990 and the petitioner who according to the school leaving certificate at Annexure-2 was aged 6 years at the time of death of his father, the Railway employee. Some controversy has been raised in the pleadings whether the name of the applicant's father was Swapna Jena or Sampudi Jena. But this is not of any significance because the applicant has explained that his father Swapna Jena was also known as Sampudi Jena and also because there is no controversy that the petitioner is the son of the deceased Railway employee. The petitioner has passed H.S.C. Examination and after getting majority he had applied for rehabilitation assistance. But in order dated 25.3.1999 his prayer has been rejected in the letter addressed to his mother. In this letter it has merely been mentioned that the widow's request for offering employment assistance to her son has been carefully examined and the competent authority did not agree to the request. The applicant has mentioned that after the death of his father the family is in indigent condition and because of this he has not been able to pursue his studies after H.S.C. and that is why he has come up in this petition with the prayer referred to earlier.

J.J.m
3. Respondents in their counter have pointed out that after the death of the father of the petitioner, the widow as paid provident fund of Rs.10,826/-, DCRG of Rs.9982/-, leave salary of Rs.1313/- and GIS of Rs.10,390/-. They have also mentioned that originally family pension of Rs.410/- was sanctioned upto 7 seven years from the date of death and at present the widow is receiving family pension of Rs.1700/- per month.

4. We have heard Shri S.Ghosh, the learned counsel

for the petitioner and Shri S.Roy, the learned panel counsel (Railways) for the respondents and have perused the records.

5. It is submitted by the learned counsel for the petitioner that in the order of rejection at Annexure-5 no reason has been assigned and it has been merely mentioned that the competent authority did not agree to the request. In view of this, it is urged that as the order of rejection is a non-speaking order, the same should be quashed and the respondents directed to provide compassionate appointment to the petitioner. It is submitted by the learned panel counsel(Railways) for the respondents that at the time of death of father of the applicant, the eldest child was the daughter who had attained majority in 1990. But she did not apply for compassionate appointment and applicant, the son only came up for compassionate appointment after he attained majority 13 years later. It is submitted that from this it is clear that the family is not in indigent condition and does not merit grant of compassionate appointment.

6. We have considered the rival submission carefully. With the marriage of the daughter, the family consists of the widow and the present petitioner. The widow is in receipt of family pension of Rs.1700/- per month and because of this, it cannot be said that the family is in destitute condition needing compassionate appointment of the son. Moreover, the applicant's father passed away in 1985 and the application for compassionate appointment was made after the applicant attained majority in 1997. from this it is clear that the family has somehow managed for 12

S. Jom

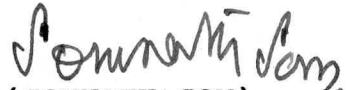
years. Law is well settled that compassionate appointment must be provided where the family is in immediate need of sustenance, and request for compassionate appointment after several years has to be treated with great deal of circumspection.

7. In consideration of the above, we hold that the applicant is not entitled to the relief claimed by him in the O.A. which is accordingly rejected. No order as to costs.

8. Before parting with the case it is necessary to mention that the order of rejection at Annexure-5 is not a speaking order. We have been noticing that whereas other Departments of Government of India like authorities of Department of Post assign reasons of rejection in such cases, the general practice in the Railways is to send an order of rejection without assigning any reason. It is proper that in all such cases the authority rejecting the request for compassionate appointment should indicate his reasons for such rejection. We hope the Railway authorities will give due regard to this aspect.


(G. NARASIMHAM)

MEMBER (JUDICIAL)


(SOMNATH SOM)
22.11.2000
VICE-CHAIRMAN