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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.436 of 1999  
CUTTACK THIS THE 9 THE DAY OF MAY, 2001

K. Balaram ..... Petitioner

-- Vrs.--

Union of India & others ..... Opp. Parties

For Instructions

1. Whether it be referred to 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*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
9.5.2001

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CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.436 of 1999  
CUTTACK THIS THE 9TH DAY OF MAY, 2001

CORAM:

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

.....

Shri K. Balaram,  
aged about 59 years,  
Retired Mail Guard,  
South Eastern Railway,  
Khurda Road,  
At present residing  
At. Rly. Qr. No.536/C, Rental Colony,  
P.O. Jatni, Dist. Khurda.

Petitioner

By the Advocates

M/s P.V. Ramdas.  
P.V.B. Rao.

- VERSUS -

1. Union of India,  
represented by the  
General Manager,  
South Eastern Railway,  
Garden Reach, Calcutta-700043
2. Divisional Railway Manager (Personnel),  
South Eastern Railway,  
Khurda Road,  
P.O. Jatni, Dist- Khurda.
3. Senior Divisional Personnel Officer,  
South Eastern Railway,  
Khurda Road,  
P.O. Jatni, Dist-Khurda
4. Officer on Special Duty,  
East Coast Railway,  
Chandra SekharPur,  
Bhubaneswar,  
Dist- Khurda.

Respondent

By the Advocates

Mr. S. Ray  
A.S.C.

ORDER

SOMNATH SOM, VICE-CHAIRMAN: Being aggrieved with the order of the Departmental Authorities rejecting his prayer for giving compassionate appointment to his son the applicant a retired Mail Guard has approached the Tribunal in this original application praying for quashing the orders of rejection at Annexures 4 and 5 and also for a direction to the respondents to provide employment assistance to his only son keeping in view circulars of Railway Board.

2. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed.

3. We have heard Shri P.V. Ramdas Learned Counsel for the petitioner and Shri S. Ray, Learned Additional Standing Counsel for the respondents. Learned Counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in the case of Balbir Kaur and another Vrs. Steel Authority of India reported in 90(2000) C.L.T.450(S.C) and Learned Additional Standing Counsel has relied on the decision of this Bench in O.A. Nos 723/97, 485/98, 359/99 and 368/99. We have gone through these decisions.

4. Facts of this case fall within small compass and can be briefly stated. After 38 years of service in the Railways the applicant was declared medically unfit for A-2 category on 22.01.1997 on account of defective vision and was recommended for the job in C-1 category. In view of such medical decategorisation the applicant sought for voluntary retirement on medical ground and in order dated 16.06.1997 he was voluntarily retired w.e.f. 14.05.1997. Applicant's date of birth is 14.11.1939 and he would have normally superannuated

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on 30.11.1997. Thus at the time of his voluntary retirement he had still six and half months of service. Applicant has stated that his family consists of his wife, one son and three unmarried daughters. As his financial condition was not good he applied for giving employment assistance to his son interms of CPO's circular dated 05.05.1995 (Annexure-6) but his representation was rejected. That is why he has come up in this petition with the prayers referred to earlier. Respondents have stated that as per rules this case was referred to Head Quarters for personal approval of Genral Manager with personal recommendation of DRM but prayer for employment assistance was refused and the decision was also communicated to the applicant in letter dated 15.09.1998. Respondents have stated that applicant is enjoying full pension and by way of terminal benefits he has been sanctioned DCRG of Rs.2.36 lakh, commutation of pension of Rs.2.31 lakh, encashment of leave salary of Rs.2429 and Provident Fund of Rs.2630. Respondents have stated that compassionate appointment is not a matter of right and in the circumstances of this case the competent authority has rightly rejected the prayer.

5. It has been submitted by the learned counsel for the petitioner that a Railway employee who is medically de-categorised and thereby loses even less than three years of service is also eligible for getting compassionate appointment to one of his family members. The grievance of the applicant is that his case has not been considered interms of the circulars of Railway Board and CPO. It has also been submitted by him that the fact that he is enjoying pension and certain terminal benefits have been given to him is not relevant for considering his prayer. In this connection he has referred to the case of Balbir Kaur (supra).

We have considered the above submissions carefully. In the circular at Annexure-6 relied upon by the learned counsel for the petitioner, it has been stated that when a railway employee is declared medically unfit for a particular category but fit in lower medical category and where he gives in writing his unwillingness to appear in the screening and wants to retire on medical ground his family can be considered for compassionate appointment. It is further provided that even in cases where the employee refuses to accept the alternative post on normal emoluments, compassionate appointment is admissible. But in such cases personal approval of General Manager has to be obtained. In a further circular of Railway Board dated 22.09.1995 <sup>circulated</sup> <sup>J/m</sup> circulated in CPO's letter dated 11.07.1996 at (Annexure-7) CPO has laid down that in such cases for obtaining personal approval of G.M personal recommendation of DRM concerned has to be submitted. Grievance of the petitioner is that his case was rejected in order dated 05.09.1998 (Annexure-4) by the DRM and this did not go to the General Manager to enable him to take a view. As we have already noted from the circulars enclosed by the applicant himself General Manager's personal consideration is based on personal recommendation of DRM. This does not mean that Divisional Railway Manager is obliged in all cases to recommend compassionate appointment. In instant case the order at Annexure-4 has been issued by Divisional Railway Manager (Personnel) though some one else has signed the letter and in this letter, it has been mentioned that competent authority has decided that there is no reasonable ground to offer employment assistance. In view of this it can <sup>not</sup> <sup>J/m</sup> be said that applicants case has not been considered in terms of the circular. Moreover from para 5 of the Counter it appears that the case was referred

to the General Manager with personal recommendation of the DRM and this was turned down. Therefore, the first contention of the learned counsel for the petitioner is rejected.

6. As regards the second contention it is no doubt true that for considering grant of compassionate appointment sanction of retiral benefits is not relevant. But sanction of pension and grant of retiral benefits go to show the financial status of the family. In Balbir Kaur's case in consideration of the facts and circumstances of the case, ~~There~~ Lordships of the Hon'ble Supreme Court held that adoption of family benefit scheme of the Steel Authority of India cannot be a ground for refusing compassionate appointment. Therefore, the decision in Balbir Kaur's case is not directly applicable to the case of the applicant. In the instant case the applicant was medically de-categorised in one category and was found fit for a lower medical category. He was a Mail Guard and because of defective vision he was medically de-categorised in A-1 category. Had his financial condition been really precarious, he would have accepted alternative employment till the date of his superannuation. The fact that he chose to take voluntary retirement on medical ground goes to show that he was not in dire need for service for the balance period till his superannuation or that he took voluntary retirement for the purpose of acquiring eligibility for getting compassionate appointment for his son under the special dispensation available in the railways for those who take voluntary retirement on medical grounds even within three years of their superannuation.

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7. In view of our above discussion we hold that the applicant is not entitled to the relief claimed by him in the original application which is accordingly rejected. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*9.5.2001*

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