

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

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ORIGINAL APPLICATION NO. 309 OF 2000
CUTTACK THIS THE 20th DAY OF Sept 2001

A. Anand 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 all the Benches of the Central
Administrative Tribunal or not ? No.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

SOMNATH S.

SOMNATH S.
VICE-CHAIRMAN

20.9.2001

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 309 OF 19 2000
CUTTACK THIS THE 20TH DAY OF Sept 2001.

CORAM:

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

.....

1. A. Anand, aged about 43 years,
 S/o. A. Ramaraju
 At- New Rausapatna, Po-Cuttack-1,
 P.S- Purighat, Town/Dist-Cuttack.

.....Petitioner

By the Advocates

M/s.
 P.K. Mohapatra,
 D. Mohapatra.

-VERSUS-

1. Union of India,
 represented through the
 Secretary, Department of Railways,
 Rail Bhawan, New Delhi.

2. General Manager,
 South Eastern Railways,
 Garden Reach, Calcutta.

3. Divisional Personnel Officer,
 South Eastern Railway,
 Nagpur Division Office,
 At/Po-Nagpur,
 Dist- Maharashtra,

.....Respondents

By the Advocates

Mr. D.N. Mishra

S. Som-

O R D E R

SOMNATH SOM, VICE-CHAIRMAN: In this original application the petitioner has prayed for quashing the orders at Annexure-3 series rejecting his prayer for compassionate appointment and also for a direction to the Respondents to appoint the applicant to a post as per his entitlement on compassionate ground.

2. The case of the applicant is that his father A. Ramaraju was appointed as Ticket Collector in 1957. In course of time he was promoted to the post of Travelling Ticket Examiner. While working as such applicant's father suffered from various chronic ailments which made him almost immobile. Ultimately he became completely bedridden and applied for voluntary retirement. Authorities after examining the medical certificates and after being satisfied that applicant's father was not physically fit to discharge his duties allowed him to retire voluntarily w.e.f. 1.9.1990 in order dated 24.10.1990 (Annexure-2). The petitioner applied for compassionate appointment but no orders were passed. Thereafter he approached the Tribunal in OA 402/1993 which was disposed of in order dated 3.4.1997 directing the respondents to dispose of the representation of the applicant, dated

S Jom.

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23.6.1993. Thereafter in order dated 25.4.1997 his prayer for compassionate appointment was rejected. In the context of the above fact the applicant has come up in this petition with the above prayers.

3. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed. It is not necessary to refer to all the averments made by the respondents in their counter because these will be taken note of while considering the submissions made by the Learned Counsels of both sides. We have heard Shri P.K. Mohapatra, Learned Counsel for the applicant and Shri D.N. Mishra, Learned Standing Counsel for the Respondents and have perused the records. Learned Standing Counsel has filed the relevant rules regarding compassionate appointment which have been printed in the book "A guide to Railway men on Establishment Rules and Labour Laws".

SJm.

4. From the averments of the applicant himself it is clear that the father of the applicant was not invalidated from service. He was not medically de-categorised. The applicant has not enclosed any order showing that applicant's father was medically de-categorised or was invalidated from service. On the contrary

from Annexure-2 filed by applicant himself it appears that applicant's father applied for voluntary retirement on the ground of sickness. Thus the sole question for consideration in this case is whether the facility of compassionate appointment is available to a railway employee who takes voluntary retirement on the ground of sickness. The legal position is that compassionate appointment can be given only in terms of the scheme which is in force in the particular establishment with regard to compassionate appointment. In the Railways compassionate appointment is permissible in case of a ward of a Railway employee dying in harness if other conditions are fulfilled. Similarly compassionate appointment is permissible when an employee is medically de-categorised or is invalidated from service. The scheme does not provide for compassionate appointment in a case where the employee goes on voluntary retirement on the ground of his illness. In this case applicant's father was not invalidated from service nor was he medically de-categorised. In view of this the applicant is not entitled to compassionate appointment and we find no legal infirmity in the stand taken by the Railways in rejecting the representation of the applicant.

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5. In view of the above we hold that the application is without any merit and the same is rejected but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
10.9.2001

K.B.