

O.A.NO.619/2000

ORDER DATED 10-05-2002.

The father of the Applicant, took voluntary retirement on medical grounds, while working in the South Eastern Railways as Khalasi. On his retirement, on medical invalidation, the Applicant, who is the son of the Railway Servant, applied for compassionate appointment. The said prayer of the Applicant for providing compassionate appointment, having been rejected in order dated 16-04-1999 in Annexure-5, the Applicant moved this Tribunal in the present Original Application with a prayer to direct the Respondents to provide compassionate appointment to the Applicant.

Heard Mr.Nayak, learned Counsel for the Applicant and Mr.Mishra, learned Standing Counsel for the Railways and perused the records.

It is submitted by Mr.Nayak, learned Counsel for the Applicant that since the father of the Applicant took voluntary retirement w.e.f. 13-11-1995 and applied for compassionate appointment in favour of his son on 13-11-1995, his case covered by the Circular/letter issued on 1st August, 2000. But, even though the Applicant has applied for reconsideration of his case, after the order of rejection dated 16-4-1999 at Annexure-5, his case has not ~~been~~ yet received due consideration of the Authorities/ Respondents. For the sake of brevity, the letter dated 1-8-2000 is quoted herein below:—

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Contd. Order dated 10-05-2002.

"Attention is invited to Board's letter No. E(NG)-II/98/RC/1/139 dated 4-3-1999 laying down that the education qualification of Class VIIIth pass for appointment to Group D will also apply to appointment on compassionate grounds. It had been further clarified vide Board's letter of even number dated 29.7.99, that candidate who have been approved for appointment on compassionate grounds prior to 4.3.99, could be exempted from possessing qualification of Class VIIIth pass.

A demand has been tabled by the staff side in the JEM/DC (No.19/2000) seeking to exempt those persons whose cases were under scrutiny or under process for compassionate appointment prior to 4.3.99, from possessing the minimum qualification of eighth class.

The matter has been considered by the Board and it has been decided that further to Board's letter dated 29.7.99, the cases which were under scrutiny or under process for compassionate appointment in Group D before the issue of Board's letter of 4.3.99 should be exempted from possessing the minimum qualification of eighth class".

From the order of rejection dated 16-4-1999 (Annexure-5) it reveals that the case of the applicant had been rejected on the ground that he does not possess the minimum educational qualification required for Gr.D posts. Since the case of the applicant squarely falls covers/govems by the circular/letter dated 1-8-2000 (quoted above) irrespective his educational qualification, his case ought to have been reconsidered by the Authorities/Respondents.

In view of the discussions made above, the order of rejection at Annexure-5, dated 16-4-1999 is hereby quashed and the Respondents are directed to reconsider the matter for providing compassionate appointment to the applicant afresh within a period of 60 (sixty) days from the date of receipt of a copy of this order.

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Contd....Order dt. 10.5.2002.

In the result, therefore, this Original Application
is allowed in the aforesaid terms. No costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY) 10/05/2002
MEMBER (JUDICIAL)

KNM/CM.