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O.A.No.270/2001.

ORDER DATED 23-04-2002.

Heard Mr.Rath, Advocate for the Applicant and Mr.C.R.Mishra, learned ASC for the Railways.

The father of the Applicant, while working as bearer under Loco Foremanⁱⁿ Khurda Road Division, died on 11-06-1996 and his mother died, there-before, on 23.03.1985. Applicant's father was the sole bread-earning member of the family. On the death of the father of the Applicant, prematurely, applicant's prayer for an employment on compassionate ground has been turned down, under Annexure-2, dated 05-10.1999. In Annexure-2, it was stated that to get an employment in Gr.'D' post, one is required to have the minimum VIIIth class qualification in terms of RBE No.277/98, dated 4-12-1998 and since the applicant did not possess VIIIth class pass qualification, his prayer for compassionate appointment was turned down, under Annexure-2, dated 05.10.1999. The Advocate for the Applicant has placed before me a copy of the Railway Board's letter No.E(NG)II/98/RR-1/107, dated 14-9-1999 wherein it was clarified that ^{in the Cases that arose} on or before 3-4-1998, ~~cases~~ VIIIth class pass qualification should not be insisted for appointment in Gr.'D' posts, on compassionate ground, as minimum educational qualification and that despite such a clarification having been

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issued by the Railway Board on 14-9-1999, the prayer of the Applicant for compassionate appointment was turned down on 5-10-1999 (Annexure-2); on the ground of not having the required qualification; which the Respondents should not have done.

Having heard the Advocate for both sides, I am satisfied that the prayer of the Applicant for compassionate appointment should not have been turned down under Annexure-2, dated 5-10-1999; because the grounds, on which the same was rejected, was/is not sustainable. I have also come across another letter dt. 1-8-2000 of the Railway Board, wherein it has been clarified that in the matter of compassionate appointment which were under scrutiny or under process for compassionate appointment in Gr.D posts, before ^{issuance} ~~the issue~~ of Board's letter of 4.3.1999, should be exempted from passing the minimum qualification of eighth class.

Later, in this case, the Applicant has also ^{standard} acquired VIIIth/qualification and submitted a fresh representation on 28-7-2000 seeking a compassionate appointment. The same having been turned down (under Annexure-5, dated 25-5-2001) the applicant has filed the present Original Application for redressal of his grievances. No grounds for

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rejection of the prayer of the applicant has been given by the Respondents in Annexure-5, dated 25.5.2001. However, in the counter filed by the Respondents, it has been disclosed that the Applicant's annual income being Rs. 6000/- (as has been specified by the competent authority/ Tahasildar, Jatni) from business, the Respondents considered the same to be sufficient to remove the distress condition of the family. Such a ground/stand of the Respondent is not sustainable in ordinary course. The Annual income of Rs. 6000/- is certainly not sufficient for removing the distress condition of the family. Therefore, the grounds on which Annexure-5, dated 25.5.2001 has been passed is not at all sustainable and ^{the same} is, accordingly, quashed. As a consequence, the Respondents are hereby directed to provide compassionate appointment to the applicant in a suitable Gr.D post; within a period of three months from the date of receipt of a copy of this order.

In the result, the OA is allowed. No costs.

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Manoranjan Mohanty
23.04.2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)