

O.A.No.613/2001.

ORDER DATED 23-05-2002.

The undisputed facts are that, on being found unfit, due to Leprosy, the father of the Applicant was retired from Government Service. The said order of discontinuance from service was challenged by the father of the Applicant in O.A.No.520/1992. While disposing of the said Original Application (No.520/1992), on 17th February, 1994, this Tribunal directed as follows:

* xx xx. Though Mr. Purohit submitted before us that the applicant has since been cured but in the interest of the applicant, we think it best and proper not to quash Annexure-12. Since he has been suffering from a contagious disease, it is for his own interest, he should discontinue from rendering any service to the Railway Administration. But here is a case where the applicant deserves sympathy from all concerned. Most unfortunately the disease invaded the body of the applicant as a result of which he had to forego his place of rice. One can safely say out of his own experience how a leprosy patient is looked down upon by a co-member in the society and therefore, for his treatment and for his maintenance somebody else should be given a job so that there would be some mental satisfaction of the applicant. In case any of the sons of the applicant applies to the competent authority for appointment, the same should be considered sympathetically*.

On the basis of the aforesaid directions of this Tribunal rendered in O.A.No.520/1992, dated 17th February, 1994, the father of the Applicant applied for consideration of the case of the first son (the present Applicant) for compassionate appointment. The said prayer for providing compassionate appointment was rejected on the ground of lack of educational qualification viz; VIII pass as stipulated in Board's letter dt.4.12.1998. The said order

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order of rejection of the request to provide compassionate appointment to the Applicant was communicated vide letter dated 23-7-1999(Annexure-R/10). Subsequently, the Applicant filed a representation alongwith a Transfer Certificate showing that he has acquired the qualification of VIII pass. The matter was enquired into by the Respondents, as per the directions given by this Tribunal to reconsider the case of the Applicant for providing compassionate appointment in view of his qualification of VIII pass in OA No.204/1998 disposed of on 7.7.2000 and on being found that the said Transfer Certificate of VIII pass produced by the Applicant is not genuine, the request for providing compassionate appointment was turned down in letter dated 27-2-2001 (Annexure-R/16). In the above context, the applicant has filed the present Original Application with a prayer to direct the Respondents to provide compassionate appointment irrespective of the qualification of VIII pass, as per letter dt.1.8.2000.

Heard Mr.Swain, Learned Counsel for the Applicant and Mr.S.R.Patnaik, learned ASC appearing for the Respondents and perused the records.

Now the moot question for consideration in this Original Application is as to whether the qualification for VIII pass is required for getting the appointment on compassionate ground in any Gr.D post ; because there had already been a direction by this Tribunal rendered in OA No.520/1992 to provide compassionate appointment to one of the sons of the Applicant for the reasons discussed in the order.

For the sake of brevity, the letter of the Railway Board

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No. E(NG) II/98/RR-1/107, dated 14-9-1999 produced by the learned Counsel for the Applicant during the course of argument is reproduced below;

2. It is clarified that the above qualification would apply only to recruitments in Gr.D undertaken after 4-12-1998. Recruitments in Gr.D for which the selection process has already been undertaken before the issue of the above instructions, may be finalised without insisting on the qualification of VIII class pass.

Subsequent to the letter of the Railway Board dated 14-9-1999 (quoted above), another letter No. F(NB)/II/99/RC-1/SC/8, dated 1-8-2000 has been issued by the Railway Board vide Annexure-5 to the Original Application wherein it has been clarified as under;

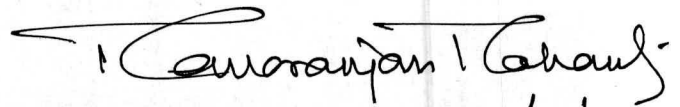
The matter has been considered by the Board and it has been decided that further to Board's letter dated 29-7-1999, the cases which were under scrutiny or under process for compassionate appointment in Group D before the issue of Board's letter dt. 4.3.99 should be exempted from possessing the minimum qualification of eighth class.

Mr. Patnaik, learned Additional Standing Counsel appearing for the Railways, also during the argument, does not dispute the authenticity of the letters issued by the Railway Board, (supra). Thus, it goes without saying that the case of the Applicant fully covers by the letter dated 1.8.2000; because the process for providing compassionate appointment in Gr.D post to the applicant has been undertaken before the date as mentioned viz; 4.3.1999.

In view of the discussions made above, in compliance of the order rendered in O.A.No.520/1992 dated 17-2-1994, the Respondents are directed to reconsider the case of the Applicant

for providing compassionate appointment, irrespective of the order of rejection dated 27-2-2001 (Annexure-R/16), without insisting the qualification of Class VIII pass as per the letter of the Railway Board (supra), within a period of 45 days from the date of receipt of a copy of this order.

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


(MANORANJAN MOHANTY) 23/08/2002
MEMBER (JUDICIAL)

KNM/CM.