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Order dated 14.07.2004

J. Ramulu, M.S.M./I/CW of Khurda Road Railway Division, passed away untimely on 13.11.2000, leaving behind the following legal heirs, as given out under Annexure-A/4 dated 26.3.2001. -

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|--------------------|-----|------------------|
| 1. J.Surya Kantama | ... | Widow |
| 2. J. Jyoti | ... | Married daughter |
| 3. J.Satya | | -do- |
| 4. J.Gita | | -do- |
| 5. J.Srinivas Rao | | Major son |

After collecting relevant material/particulars, the widow of the said J.Ramulu represented to the authorities in the Railway seeking an employment, on compassionate ground, in favour of a member of the family. On 24.7.2002, the Divisional Railway Manager(P) of Khurda Road Railway Division refused to grant employment assistance, on compassionate ground, in favour of the son of the deceased railway employee. Since the widow of late J.Ramulu suffered from cancer, the son of late J.Ramulu (applicant herein) again represented to the authorities to give reconsideration of the matter for the purpose of providing him a compassionate employment in order to overcome the distressed condition of the family. In fact, on 11.4.2003, the local M.L.A. of Khurda Road area wrote a letter to the railway authorities to grant necessary relief to the applicant to tide over the sudden crisis. The Respondents-Railways having not responded to the grievance of the applicant (Shri J.Srinivas Rao, S/o. late J.Ramulu), this Original Application under Section 19 of the A.T.Act, 1985, has

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been filed for redressal of his grievance. While rejecting the prayer of the family of late J. Ramulu, the Divisional Railway Manager(P), of Khurda Road Railway Division, assigned the following reasons.

"... It is to inform that the instant case has been examined and put up to the competent authority, who has not approved the case as the ex employee expired at the age of 59 years, i.e., on the verge of his normal retirement from service and a good amount of money has been paid to the widow as settlement dues including nearly Rs.3000/- as family pension. As such the employment assistance on compassionate ground to Shri J. Srinivasa Rao, S/o. late J. Ramulu is rejected".

By filing a counter the Respondents-Railways have tried to substantiate their stand taken under Annexure-A/7 dated 24.7.2002. It is their stand that the deceased employee, J. Ramulu was due to face normal retirement on superannuation from service w.e.f. 31.3.02 and he having passed away on 13.11.2000, there was one year and four months of service left before his retirement.

The applicant by filing a rejoinder has tried to explain the objection raised by the Respondents in their counter.

Heard Shri A. Das, learned counsel for the applicant and Shri S.K. Ojha, learned Adl. Standing Counsel appearing on behalf of the Respondents-Railways and perused the materials placed on record.

With regard to objection that the deceased employee had one year and four months (after his death) to face the normal retirement, in my considered opinion, this plea of the Respondents-Railway ~~is not~~ does not hold any water.

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inasmuch as there has been neither any prohibition to provide compassionate appointment in the case of the type nor ~~is there any rule putting embargo to that effect,~~ to buttress the argument of the Respondents. Thus, this plea of the Respondents is ~~hereby overruled.~~

As regards the terminal benefits/retiral benefits received by the deceased family, it is for the reason of the decision of the Hon'ble Apex Court rendered in the case of Balbir Kaur & another v. Steel Authority of India Ltd. & Ors. (reported in 2002 (2) A.T.T. (SC) 255) and the ~~rendered in the~~ decision of this Bench ~~/~~ cases of Mina Kumar Mohanty & another vs. Union of India & Ors and Ranka Nidhi Sahoo vs. Union of India & Ors (reported in (1994) 2 ATT(CAT) 120 & 2002(2)1 CJD(AT) 21, respectively) the terminal benefits received by the deceased family cannot be taken into account for the purpose of determining the indigent condition. Thus this plea of the Respondents-Railways is ~~hereby overruled.~~

The family now consists of mother and her son (the present applicant) which is stated to have derived Rs.10,000/- ~~per year~~ ^{as is seen under} from the tailoring business ~~/(Annexure-R/3 dated 20.2.2001)~~. It is the case of the Respondents-Railways that there being an independent source of income of the family, compassionate appointment cannot be granted. A family consisting of old mother (who is suffering from cancer) and the son can hardly maintain themselves with Rs.10,000/- per annum, which comes to little more than Rs.800/- per month. Viewed from this, it cannot be said that the family is not in distress condition, especially

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when the widow is suffering from cancer (as is evidenced from Annexure-A/8 dated 10.8.2002). Shri Ojha, learned Addl. Standing Counsel for the Railways states that the applicant has not placed adequate materials on record to substantiate that the widow is continuing to be under treatment for cancer. This objection of the Railways is not acceptable; because, on the basis of Annexure-A/8 dated 10.8.2002, the Railways ought to have deputed their Welfare Inspector to verify the position from the source available.

In the aforesaid premises, I am inclined to hold that the family of the applicant is in distress condition and in all fairness steps should be taken to provide an employment, on compassionate ground, in favour of the applicant herein; for which fresh consideration should immediately be made by the Respondents, preferably within a period of three months from the date of receipt of copies of this order.

In the result, the O.A. is allowed. No costs.

MEMBER (JUDICIAL)

J. Chandra
14.07.2004

Copy of order
dt. 14/7/04
issued to the
Counsel but
both stale.
14/7/04
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