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O.A. No. 111 OF 2005

Order dated 3rd August, 2006.

Grievance for providing employment assistance on compassionate ground in favour of the Applicant having been turned down under Annexure-4 dated 19-12-2001 and under Annexure-7 dated 16-04-2004 the Applicant has approached this Tribunal in the present Original Application filed under section 19 of the Administrative Tribunals Act, 1985 praying the following relief(s):-

- (a) The respondents may be directed to give appropriate employment to the Applicant under the employees assistance Scheme;
- (b) And/or any other relief deemed just and proper by this Tribunal;
- (c) Quash the impugned order dated 16-04-2004 (Annexure-7).

The Respondents have filed their counter opposing the prayer of the Applicant. No rejoinder has been filed by the Applicant.

Heard Mr. Purohit, learned counsel appearing for the Applicant and Mr. C.R.Mishra , Learned Counsel appearing for the Railways and perused the materials placed on record.

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As it appears from the record, while the father of the Applicant (Late S. Appa Rao) was working in the Railways, he having been declared medically de-categorized took voluntary retirement on 20-07-1996. After his voluntary retirement he made an application for providing employment assistance in favour his second son (S.Bhagabati Rao – present Applicant). While the matter was under consideration, he made another application dated 13-02-1998 stating that as his second son (the present applicant) is residing out of his residence and engaged in a Private Firm, employment assistance may be provided in favour of his first son (S.Kanta Rao). While the matter stood thus, the father of the Applicant expired on 31-05-1999. Thereafter, the mother of the Applicant submitted a representation in the month of September, 1999 requesting the authority to offer her as substitute till her eldest son who is preparing Class X examination comes out successful followed by another representation dated 26-12-2003 requesting compassionate appointment in favour of her youngest son. In view of the contradictory statements, the Respondents made an enquiry and on enquiry it was found that the declaration given

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by the ex-employee that he has three sons was proved to be false. In fact he has two sons and one daughter. Further on enquiry it was revealed that the educational certificate of his first son, furnished by the ex-employee for providing employment assistance was proved to be not genuine. It was also revealed that there are many discrepancies in the declaration given by the ex-employee in support of the age of his sons even while he was in service. In view of the prevaricating statements furnished by the father and mother of the Applicant, the grievance for providing employment assistance was rejected by the Respondents.

Settled position of law is that one who does not come in clean hand is not entitled to claim equity. Appointment on compassionate ground is also not an alternate mode of recruitment. From the facts it is revealed that the family are not sure in whose favour the employment assistance should be provided. The mother of the Applicant has also not been made as one of the Applicants. Besides, the family has been able to manage their living from 1996 till date. There is no averments that the family of the ex-railway employee are still in indigent

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condition. No supporting document has also been filed showing the source of their income.

In this view of the matter, I find no infirmity in the orders of rejection which are under challenge in this Original Application. This Original Application is therefore, dismissed by leaving the parties to bear their own costs.

B.B.
(B.B. MISHRA)
MEMBER (ADMN.)

Copy of Order
may be given to
both the Counsels.

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S.O. (J)