

O.A.No. 873/06

ORDER DATED 1st APRIL, 2009

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Heard Mr. T.K. Mohanty, Ld. Counsel for the
applicant and Mr. G. Singh, Ld. Addl. Standing Counsel for the
Respondents.

2. This Original Application has been filed by the
applicant challenging Annexure-A/3 order dated 04.04.2006 of
Chief Workshop Manager (P), CRW/Mancheswar, and praying
for the following relief(s):-

“(a) To quash the order dated 04.04.2006 vide
Annexure-3.

(b) To direct the Respondents to give a suitable
appointment to the applicant on compassionate
ground in any suitable post within a stipulated
period.

(c) To pass any other appropriate order in favour of
the applicant as justified under the
circumstances.”

3. The brief facts which are necessary for
consideration of this Tribunal as follows:-

The father of the applicant one Nrusingha
Moharana died in harness while working as a skilled Artisan in
Mancheswar Workshop of the then S.E. Railway w.e.f.
17.03.1988. As per the appointment order, the father of the
applicant had undergone training course and completed the
training course successfully and thereafter absorbed as a



permanent employee of the Railways. However, the applicant's father completed the training course as per list dated 10.09.91. Unfortunately, before the absorption after successful completion of the training, the father of the applicant died on 31.08.90. However, the applicant had filed an application for employment assistance under the scheme with all required documents including the educational qualification of the applicant, the death certificate, legal heir certificate, etc. Since the application of the applicant has not been considered in time the applicant approached this Tribunal by filing O.A. No.965/05 and by the order dated 23.12.05 this Tribunal directed the Respondents to consider the claim of the applicant within a specified time. However, on receipt of the copy of the order of this Tribunal, the Chief Workshop Manager (P), CRW/Mancheswar, passed the impugned order Annexure-A/3 on 04.04.06. Hence the applicant filed the present Original Application.

4. Counter has been filed for and on behalf of the Respondents and in the counter it is stated that since the father of the applicant was working only as a temporary employee the applicant is not entitled to get the benefit as contemplated under the scheme. On receiving the counter statement the applicant has also filed rejoinder, in which he has reiterated the grounds urged in the O.A and has further stated that there are judgements of this Tribunal holding that the employees, who are under training shall be absorbed after the completion of successful training course. If that principle is adopted, Mr. Mohanty, Ld. Counsel for the applicant submits that the Railways ought to have absorbed the father of the applicant on

completion of the training course normally in February, 1989. If so, it is not the fault of the father of the applicant that he is not absorbed in the service and as and when he passed the training course he should have been absorbed as per the conditions stipulated in the appointment order.

5. On anxious contentions of the parties and on perusing the records, this Tribunal is of the view that the stand taken by the Respondents that as the applicant's father was not absorbed permanently, the applicant is not entitled for employment assistance under the scheme is not tenable. Admittedly as per Annexure-A/4 appointment order filed along with the rejoinder, it is stated therein that on completion of the successful training course such employee should be absorbed and it is a fact that the applicant's father completed the training during February, 1989 and if so, the service of the applicant's father shall be considered as regular or rather his service has been deemed to have been made regular. This Tribunal is of the view that inaction of the Respondents for not regularizing the services of the applicant's father cannot be a reason for denying employment assistance to the applicant. Hence Annexure-A/3 is set aside and the Respondents are directed to reconsider the application of the applicant afresh and pass appropriate orders at any rate within 60 (sixty) days of the receipt of the copy of the order.

6. The O.A is allowed. No costs.

L. K. Appa

MEMBER (J)