

O.A. No. 86 of 2007

Order dated: 17.09.2008

CORAM:

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

This is an application filed by the Son of a deceased Railway Employee, whose father died in harness on 18.07.2001. His father was succeeded by the applicant, his mother (the wife of the deceased employee), two brothers and three sisters. After the death of his father, the applicant had approached the authorities for getting the family pension as well as for employment assistance as per Annexure-A/2 application dated 4.9.2001. However, the Respondents have allowed family pension in the name of the mother of the applicant whereas no employment assistance has been granted to the applicant. Hence, the applicant filed another representation as Annexure-A/3 on 8.5.2002 addressing the Divisional Railway Manager, East Coast Railways, the 2nd Respondents herein, requesting to consider the application for employment assistance to him. However, this application has not been considered either to. Hence, the applicant approached this Tribunal by filing the above Original Application.

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2. This Tribunal heard the Ld. Counsel appearing for the applicant and perused the records produced by him.

3. The Ld. Counsel for the Respondents also had relied on the counter affidavit filed on behalf of the Respondents. As per the counter affidavit, it is stated that on verification of the records, no application for employment assistance on compassionate appointment has been received in the prescribed format from the applicant. At the same time, the counter affidavit definitely accepts the position that they have received Anenxure-A/2 application. However, the reason appears from the counter affidavit for not granting employment assistance that the applicant had not submitted the application in proper format with other records. However, it is submitted in the counter affidavit that there occurred the delay of more than 5 years and because of the delay and reserve quota for compassionate appointment fixed as 5%, after this long period, the application cannot be entertained by the Respondents. The Respondents have relied on a judgment of the Apex Court reported in 1994 Judgment Today SC 525 in Umesh Kumar Nagpal vs State of Haryana and other in which the Apex Court held that to

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get employment under compassionate appointment is not a matter of right.

4. Considering the rival contentions now raised before this Tribunal, the question to be decided is that whether the Respondents are justified in taking stand that Annexure-A/2 and A/3 are not enough to give employment assistance to the applicant or not. Admittedly, the father of the applicant died in harness in 2001 and the necessary representations were submitted to the authorities as evident from Annexure-A/2 and A/3. It is also the case of the applicant that the necessary particulars including the date of birth certificate of the applicant and death certificate of the father of the applicant and also the educational qualifications of the applicant were also submitted to the 2nd Respondents.

5. In the above circumstances, this Tribunal is of the view that it is the duty of the Respondents especially 2nd Respondent to consider Annexure-A/3 application afresh along with all documents enclosed therein and pass appropriate orders thereon within 45 days of the receipt of copy of this order. It is also made clear that the stand of so called delay now taken in the counter affidavit cannot deny the claim of compassionate appointment as the details issued

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by the DoPT would show that even though 5% of posts are reserved for compassionate appointment, the applicant should have been given atleast three chances for considering the application. Ordered accordingly.

6. In view of the observations made above, the O.A. is allowed to the extent indicated above. No costs.

Kappan
MEMBER(J)

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