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O.A. No. 185 of 2008


Order dated: 28.07.2009

CORAM:

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

Hon'ble Mr. C.R.Mohapatra, Member (A)

Applicant No.1 is the son of one K. Ganga Raju, who died on 7.6.2000 while working as a Painter-III under the Section Engineer (P.Way), East Coast Railways, Rayagada. He ^{was} succeeded by his wife (the second applicant), son (the first applicant) and a married daughter. After the death of the Railway employee, an application for compassionate appointment was filed before the authorities with necessary documents on 1.6.2002. On scrutinizing that application with all testimonials the authorities found that the first applicant has not passed 8th standard, the minimum qualification necessary for getting an appointment under the Railways in any Group-D post, hence his case was rejected. Subsequently, the applicant filed another application during 2006 with the certificate of 10th standard pass. The same was also considered by the Respondents and as per the present impugned order the authorities found that the present application of the applicant was belated one. As per the existing rule, time limit for grant of employment assistance

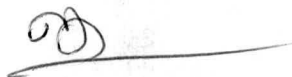


can be extended upto a maximum period of five years from the date of death of the employee. As the applicant's father died during 2000, the second application filed by the applicant in 2006 has been rejected. Aggrieved by the said order, the applicant has filed the present O.A.

We have heard Mr. A.K.Nanda, Ld. Counsel for the applicant and Mr. S.K.Ojha, Ld. Standing Counsel for the Respondents.


Ld. Counsel for the applicant submits that during 2005, he had passed 9th standard and he was studying in 10th standard and in 2006 he passed 10th standard. To support his case, the applicant relies on Annexure-A/4 series. According to the Ld. Counsel, Annexure-A/4 series would show the details regarding the death of the father of the applicant as well as the date of birth of the applicant and educational qualification that he was studying in 10th standard. However, that application was not considered in true spirit according to the Ld. Counsel and hence this Tribunal may interfere in the matter.

At the same time, Ld. Counsel for the Respondents Mr. Ojha relying on the counter affidavit filed on behalf of the Respondents submits that as per the existing



rule the maximum period for applying for compassionate appointment is five years from the date of death of the Govt. employee. Even if, a dependent is minor at the time of the death of the Govt. employee, the date on which he attains majority he can apply without considering that five years. That apart, as per the existing rule pass in 8th standard is required qualification for getting appointment in the Railways. Even though the applicant filed an application during 2002, he produced a transfer certificate showing him fail in 7th class. If so, he was not having requisite qualification during 2002. With regard to application filed on 2006, Ld. Counsel for the Respondents submits that as the applicant had attained the age of majority even prior to 1998, the applicant applied with 10th class certificate only on 2006, i.e. beyond the period of limitation of 5 years from the date of death of Govt. employee. Ld. Counsel also relies on Annexure-R/1 and R/2, Railway Board letters which prescribes the maximum period for filing of application as 5 years.

In the light of the contentions raised by the Ld. Counsel for the parties, it is the question to be decided whether the applicant is justified in approaching this



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Tribunal or not? Admittedly, the father of the applicant died during 2000 and the applicant has filed an application during 2002 in which the transfer certificate produced shows that he failed in 7th standard. Hence, rejection of the application is absolutely correct.

With regard to the second application in 2006 with certificate of pass of 10th standard is a belated one as per Annexure-R/2, which reads as follows:

"In terms of this Ministry's letter under reference, an eligible dependent of a Railway employee who dies in harness or is retired due to medical invalidation may be allowed to complete the educational course that he may have taken up so that he may be considered for appointment on compassionate grounds in a grade/post commensurate with higher qualification, provided he acquires the higher qualification and applies for higher grade/post within the prescribed period of five years subject to the condition that only one such chance can be availed by the candidate during the period of five years."

In the above circumstances, we are of the view that as the applicant has not applied in time as per the rules existed in the field, he is not entitled for the benefit available under the provisions of compassionate appointment scheme.



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Accordingly, this O.A. is devoid of merit and
stands dismissed without any order for costs.

Rhodes
~~MEMBER (A)~~

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~~MEMBER (J)~~

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