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OA No. 85 of 2008

S.Kondala Rao .... Applicant  
Versus  
UOI & Ors. ... Respondents

Order dated 17 September, 2009

C O R A M

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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It is seen from the record that alleging non-consideration of the case of the Applicant by the Railway Authorities for employment on compassionate ground after the premature death of his father while working in the Railway as Loco Shunter, Loco Talcher, the Applicant earlier approached this Tribunal in OA No. 332 of 2002. The said OA was disposed of on 15.5.2002 thereby calling upon the Respondents to consider and dispose of the pending representation of the Applicant with a reasoned order and communicate the result thereof to the applicant within a stipulated period. Apparently, pursuant to the aforesaid order of this Tribunal the Respondents considered and rejected the case of the applicant for providing employment on compassionate ground and communicated the same under Annexure-1/3 dated 25.5.2006; which order is now under challenge in the present Original Application filed under section 19 of the Administrative Tribunals Act, 1985 seeking to quash the order under Annexure-A/3 and to direct the Respondents to reconsider his case for providing employment on compassionate ground. The reason for rejection of the grievance of applicant for providing employment

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on compassionate ground provided in the order under Annexure-A/3 is as under:

“On examination of the case it is revealed that in the OA you have stated that you passed 8<sup>th</sup> class, whereas educational qualification certificate submitted by you at the time of enquiry indicates that you have passed class I (during the period 75/76 to 80/81). From this it is inferred that you have passed class 1 but not class 8 as stated in the OA.”

2. By filing counter the Respondents made all out efforts to justify the grounds of rejection taken in the order of rejection under Annexure-A/3. In this context while reiterating that as the applicant does not fulfill the eligibility condition provided for appointment his case was rejected. Further it was averred by the Respondents that providing compassionate appointment has direct nexus with the financial condition of the family and as the financial condition of the family was not as such so as to be provided with employment on compassionate ground to the Applicant. Accordingly, the Respondents opposed the prayer of the applicant and have prayed for dismissal of this OA.

3. Heard Mr. Dillip Kumar Mohanty, Learned Counsel for the Applicant and Mr. D.K.Behera, Learned Counsel appearing for the Respondents and perused the materials placed on record.

It has been contended by Learned Counsel for the Applicant that Respondents rejected the case of the Applicant on the ground of lack of qualification without taking into consideration the Railway Board's instruction under Annexure-

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A/1 dated 1.8.2000 reiterating the earlier instructions directing that the cases

which were under scrutiny or under process for compassionate appointment in Group D before the issue of Board's letter of 4.3.1999 should be exempted from passing the minimum qualification of eight class. Further it has been contended by him that now the Respondents took the stand of the financial liability of the family although the same is not required so far as appointment on compassionate ground in Railway is concerned. In this connection he has relied on the letter issued by the CPO, E.Co.Railway dated 28.9.06.2004 providing that financial condition of deceased family is not a criterion in providing employment assistance to the legal heir of a deceased railway employee like in any other department. His contention is that since the case of the applicant arose prior to 4.3.1999 applicant's case is squarely governed and covered by the instruction under Annexure-A/1. Therefore, it has been submitted by him that as there has been miscarriage of justice in the decision taking process of the matter, the impugned order under Annexure-A/3 needs to be quashed with direction to the Respondents to consider/reconsider the case of the applicant taking into consideration the Railway Board's instruction stated above. Neither in the counter filed in this case nor in course of hearing the instructions relied on by the Applicant have been disputed by the Respondents. •


4. Since educational qualification was the only ground of rejection and Railway Board by issuing instruction under

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Annexure-A/1 exempts acquiring the qualification of 8<sup>th</sup> pass which as it appears has not been taken into consideration while rejecting the case of the applicant, the order of rejection under Annexure-A/3 is hereby quashed. The matter is remitted back to the Respondents to consider/reconsider the case of the Applicant keeping in mind the Railway Board's instruction under Annexure-A/1 and the CPO, ECoRly letter dated 28.06.2004 (quoted at page 5 of the OA) within a period of 60 days from the date of receipt of this order and pass a reasoned order and communicate the same to the Applicant within this period.

5. In the result, this OA stands allowed in the aforestated terms. No costs.

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)