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O.A. No. 358 of 2009  
Smt. Pitta Appalamma. ... Applicant  
Versus  
UOI & Ors. ... Respondents

Order dated 23rd October, 2009.

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

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The order under Annexure-A/1 dated 19.01.2009 rejecting the prayer of Applicant for employment on compassionate ground after the death of her husband while working in the Railway is the subject matter of consideration in this Original Application filed under section 19 of the A.T. Act, 1985 seeking to quash the aforesaid order under Annexure-A/1 and to direct the Respondent to reconsider the prayer for providing employment on compassionate ground. Heard Mr. Yadav, Learned Counsel for the Applicant and Mr. S.K.Ojha, Learned Standing Counsel appearing on notice for the Respondents. The order under Annexure-A/1 dated 19.1.2009 unequivocally states that the prayer for providing appointment to the son of the applicant has been rejected on the ground that he does not have the minimum educational qualification of Class VIII pass. Now relying on the Railway Board's instruction dated 1.8.2000 it has been contended by the Learned Counsel for the Applicant that the Respondents rejected the prayer for appointment on compassionate ground without taking into consideration of the Railway Board instruction dated 01.08.2000 wherein it has been provided that passing of Class VIII needs to be exempted in the cases which were under

scrutiny or under process for compassionate appointment in Group D before the issue of Board's letter dated 04.03.1999. His further submission is that power of relaxation of educational qualification in the case of appointment on compassionate ground has been vested by the Railway Board vide its order dated 22.2.1989. But the case of the applicant has been rejected without assigning any reason of not exercising such power of relaxation; especially when it is a case of compassion. Perused the aforesaid instructions. Fact of the matter, as revealed from the record, is that the father of applicant expired prematurely while working in Railway on 30.12.1995. Admittedly, at the time of the death of the Railway servant, his son for whom compassionate appointment is sought was a minor. It appears, considering the plight of the family, Respondents were willing to offer the appointment to the widow (applicant). But the Applicant requested for providing appointment to her son on his attaining majority. Law is well settled in a plethora of judicial pronouncement which needs no emphasis/repetition that Rules/instructions available at the relevant point of time should be the deciding factor. It is also seen that though power is available with the authority to relax the qualification etc. in the matter of providing compassionate appointment no reason has been assigned in the order of rejection for non-exercise of such power. But the applicant has not placed any material to show that he had ever brought these points to the notice of the authority. In course of hearing Learned Counsel for the Applicant seeks liberty to make representation seeking the

benefit of the Railway Board's instructions now relied on by him.

2. In view of the above, I think it just and proper to grant liberty to the applicant to make a fresh representation enclosing the Railway Board's instructions relied on by him now, to the competent authority within a period of fifteen days. The Competent Authority (to whom such a representation is addressed) is hereby directed to consider the representation of the Applicant and pass a reasoned order, keeping in mind the Railway Board instruction dated 1.8.2000 and 22.2.1989 and communicate the result thereof to the Applicant within a period of 45 days of receipt of such representation. Ordered accordingly.

3. With the observations and directions made above, this OA stands disposed of. No costs.

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