

O.A. No. 469 of 2009Order dated: 12.10.2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)Hon'ble Mr. C.R. Mohapatra, Member (A)

The present applicant, the son of the deceased Railway employee who died on 24.5.1995, filed this O.A. for a direction to the Respondents to consider his application for compassionate appointment.

2. The applicant's father, while working as Gangman/PWI/BRAG under the 1st Respondent, expired prematurely leaving behind him, his wife, Kai Mallick, one minor son and six other minor daughters. Thereafter, the wife of the Railway employee filed an application with necessary documents for getting employment assistance. The said application was considered by the Respondents and employment was offered under the employment assistance scheme as per the letter dated 13.5.1999 in the Group-D cadre. The wife of the deceased employee accepted the offer and worked for some time. However, during 2005 the wife of the deceased employee had represented that the employment under the compassionate appointment scheme



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may be offered to her son who became major attaining the age of 24 years and completed 9th standard. However, the Respondents finally by order dated 21/23.1.2008 rescinded the present request of the applicant made on the basis of the representation of his mother.

3. In the above background or rather aggrieved by the said order, the present application has been filed by the applicant.

4. When the case comes up for admission today, there is no appearance either by the Counsel or by the applicant. No request is also made on behalf of the applicant's counsel for posting the matter on any other date. We have, therefore, considered the case on merit.

5. Admittedly, the father of the applicant died during 1995 and the employment under the compassionate appointment scheme has been already offered to the wife of the deceased employee and she accepted once and worked for some time. Subsequently, she wants to give the employment or to transfer the appointment to her son who became major and passed 9th standard. The question to be considered is whether the employment under the

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compassionate appointment scheme can be considered as hereditary or it can be considered after a lapse of years.

6. Repeatedly, the Apex Court has held that under the compassionate appointment scheme nobody can claim an appointment as a matter of right. It is only a concession given by the department and that apart, it should be acted on various other factors, such, as income of the family, time prescribed to approach the authorities and also the circumstances under which the family of the deceased employee requires such a recouping of the financial position.

7. That apart, in a recent judgment of the Apex Court, reported in AIR 2009 SC 2568, State of Chhattisgarh vs Dhirjo Kumar Sengar, it has been held that appointment on compassionate ground is an exception to the constitutional scheme of equality as adumbrated under Article 14 and 16 of the Constitution of India and that nobody can claim appointment by way of inheritance.

8. Applying the above principles laid down by the Apex Court and considering the fact that the mother of the applicant was offered employment under the scheme and she had accepted the same and worked for some time, the

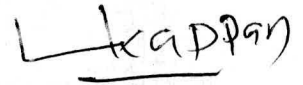
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present application is devoid of any merit. Hence, we are of the view that the O.A. has to be dismissed in limine.

9. Accordingly, the O.A. stands dismissed as meritless. No costs.


MEMBER (A)


MEMBER (J)

RK

