

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.541 of 1996

Present : Hon'ble Mr.D.Purkayastha, Judicial Member.

RUPLAL KUMAR S/o Late Debi
Kumar, by occupation -
unemployed, residing at
village - Tamaguria,
P.S.Nimiaghat, District -
Giridih, Bihar.

... Applicant

vs.

1. Union of India represented by the
General Manager, Eastern Railway,
1, Fairlie Place, Calcutta-700 001.
2. The Divisional Superintendent,
Eastern Railway, Asansol, Burdwan.
3. The Divisional Railway Manager,
Eastern Railway, Asansol.
4. The Chief Personnel Officer,
Eastern Railway, 1, Fairlie Place,
Calcutta - 700 001.

... Respondents

For the applicant : Mr.S.Choudhury, counsel.

For the respondents: Mrs.Uma Sanyal, counsel.

Heard on : 16.6.1998

Order on : 16.6.1998

O R D E R

Ld.counsel, Mr.S.Choudhury, appearing on behalf of the applicant, seeks adjournment of this case. But the same is refused by me for the interest of justice. I have gone through the application for scrutinising whether any justice can be done to the applicant on the basis of the application filed by him instead of dismissing the case for default since the ld.counsel for the applicant is not willing to argue the case as he has not brought his brief today.

2. It is found that the applicant had approached this Tribunal earlier by filing an original application under

section 19 of the Administrative Tribunal Act, 1985, being O.A.No.1128 of 1994 for getting an appointment on compassionate ground in Group-D post. The application was allowed by this Tribunal by the order dated 8.5.1995 with a direction upon respondent no.1 to that application i.e. the General Manager, Eastern Railway, to get the facts properly enquired into and to consider whether a suitable compassionate appointment could be given to the applicant or not within a period of four months from the date of communication of the order. In case, the decision of the General Manager was in the negative, he was directed to pass a speaking order and communicate the same to the applicant (annexure 'B' to the application). After ~~passing~~ ^{receipt} of the said order in O.A.1128 of 1994, the General Manager, Eastern Railway, considered the representation of the applicant and by the order dated 20th September, 1995 (annexure 'C' to the application), disposed of the representation of the applicant with a speaking order. The applicant feeling aggrieved and dissatisfied with such speaking order of rejection of his prayer for compassionate appointment, has approached this Tribunal again by filing the instant application alleging that his ~~case~~ ^{case} for appointment on compassionate ground was not considered properly by the respondents. According to the applicant, the respondents ought to have granted him compassionate appointment as per the scheme followed by the respondents for appointment on compassionate ground and hence this application should be allowed.

3. The respondents have resisted the claim of the applicant by filing a reply and denying his claim. The respondents state that the representation of the applicant was duly considered by the General Manager, Eastern Railway, and after consideration of the same it was found that the applicant could not justify his claim for appointment on compassionate ground under the scheme framed by the respondents and thereby his representation

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was rejected. The decision was communicated to the applicant by passing a reasoned and speaking order vide the letter dated 20th September, 1995 (annexure 'C' to the application). Thereby, the respondents contend, the applicant should not have any grievance for the action taken by the respondents as per the direction of this Tribunal in O.A.1128 of 1994.

4. Id.counsel, Mrs.Uma Sanyal, appearing on behalf of the respondents, submits that the father of the applicant, Late Debi Kumhar, died on 22.1.1972 due to an accident while performing his duty. At that time, the scheme for appointment on compassionate ground, was not in force. The said scheme came into force in the year 1984, and on consideration of the circular, the Railway department did not find any reasonable ground to allow the prayer of the applicant after a lapse of 21 years for appointment on compassionate ground.

5. I have gone through the letter dated 20th September, 1995. It is found apparent from the record that the respondents have passed a speaking order rejecting the claim of the applicant. It is found from paragraph 4 of the speaking order dated 20.9.1995 that the respondents have mentioned that the whole objective for granting appointment on compassionate ground is to enable the family to tide-over the sudden financial crisis which the family faces at the time of the death of the bread-earner and compassionate appointment cannot be a vested right which can be claimed and offered irrespective of the lapse of time and after the crisis is over. However, nowhere in the letter dated 20.9.1995 it has been stated that the family of the deceased employee was not in financial crisis as per the enquiry and as per the scrutiny made by the authorities. It is found that the authorities without ascertaining the real object for granting appointment on compassionate ground, has refused the claim for appointment on compassionate ground. The order passed by the respondents is not a happy one for the purpose of refusal of the claim for compassionate appointment. But in view of a

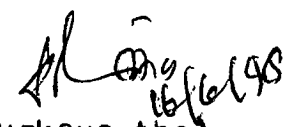
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recent judgment[✓] of the Hon'ble Apex Court, I am handicapped[✓] to give relief to the applicant. It is found that the mother of the applicant for the first time on 26.7.1993, made a prayer to the authorities for appointment of her son, the present applicant, on compassionate ground, after a lapse of 21 years from the date of death of the deceased employee. The Hon'ble Apex Court, by a catena of decisions, has discouraged the attitude of the Tribunal to grant relief for compassionate appointment on belated applications filed by persons claiming compassionate appointment.

6. In State of U.P. vs. Paresh Nath, ^{✓ 1998 SCC (LTS) 570} the Hon'ble Apex Court has considered the case of appointment on compassionate ground after a lapse of 17 years from the death of the employee. The Hon'ble Apex Court has reiterated that the purpose of providing employment to a dependant of a Govt. servant who has died in harness, in preference to anybody else, is to mitigate the hardship caused to the family on account of unexpected death of the employee while still in service. To alleviate the distress of the family, such appointment is permissible on compassionate ground provided it is under the rules provided for the purpose of giving immediate assistance to the family of a deceased Govt. servant and none of these considerations can operate when an application has been made after a long period of 17 years.

7. In the instant case I find that the present applicant had earlier moved this Tribunal in the year 1994 by filing O.A.1128 of 1994 and at that time the application was found to have been filed after 21 years from the death of the employee. But in view of the settled position of law, I am unable to grant any relief to the applicant.

8. The application is devoid of merit and hence is dismissed. No order is passed as to costs.


(D. Purkayastha)
Judicial Member