

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.D.A.611 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman.  
Hon'ble Mr. M.S. Mukherjee, Administrative Member.

GAUTAM MUKHERJEE  
S/o Late Bhaskar Mukherjee,  
resident of Lower Chelidanga,  
Asansol-4, District: Burdwan.

... Petitioner

Vs.

1. Union of India through the General  
Manager, Eastern Railway, 17, Netaji  
Subhas Road, Calcutta-700 001.
2. Divisional Railway Manager,  
Asansol Division, Eastern Railway,  
P.O. Asansol, District: Burdwan.
3. Chief Personnel Officer,  
Eastern Railway, 17, Netaji Subhas  
Road, Calcutta-700 001.

... Respondents

For the petitioner : Mr. N. Ganguly, counsel.

For the respondents: Mr. P.K. Arora, counsel.

Heard on : 4.9.1997

Order on : 18.9.1997

ORDER

A.K. Chatterjee, V.C.

The father of the petitioner died in harness on 3.3.1974 while serving as a Peon in the Office of the D.R.M., Asansol, when the petitioner was aged about four years. He states that on attainment of majority, his mother made an application to the authorities for his appointment on compassionate ground, which, however, was turned down on the ground that the case was time barred. The maternal grandfather of the petitioner

also made an application in April, 1991, seeking an appointment on compassionate ground for the petitioner which was rejected on the ground that the petitioner's mother was appointed as a substitute Ayah after the death of her husband. In the circumstances, the instant application has been filed inter alia for a direction upon the respondents to engage the petitioner in a suitable post on compassionate ground.

2. The respondents have filed a reply stating inter alia that the petitioner's mother made an application seeking compassionate appointment of herself when her husband was in death bed which was considered sympathetically and she was engaged as a substitute Ayah after her husband had died. She was thereafter regularised in the said post. In such circumstances, it has been urged that not only the petitioner's application for compassionate appointment was delayed but also his mother having been appointed, no further appointment can be given to the petitioner.

3. We have heard the ld.counsel for the parties and perused the record before us.

4. The records leave no manner of doubt that the petitioner's mother even though made an application for appointment during the last days of her husband, still she got an appointment as in the meantime her husband died and also she was subsequently regularly absorbed. This is nothing but an appointment of the petitioner's mother on compassionate ground because of the death of her husband. In such situation, there cannot be any question of giving another appointment to the petitioner even though they may have a large family to support. *as stated by the father*


5. The ld.counsel for the petitioner has urged that his mother was appointed as a substitute although his *father* ~~mother~~ held a substantive post and, therefore, the compassionate appointment must also be made on a permanent basis.


6. We see no force in this contention because the whole purpose to give an appointment on compassionate ground is to save a family in distress which does not depend upon whether the

appointment is given on a permanent basis or an engagement is given as a substitute. Further, the petitioner's mother has since been regularised in that post and, therefore, there is no doubt that even though she was initially engaged as a substitute, she has been regularly absorbed subsequently. In the petition, some other instance of compassionate appointment has been pointed out and according to the petitioner, his case stands on the same footing. We see no merit in this contention because the compassionate appointments are made according to the facts and circumstances of each case and there cannot be any binding <sup>precedent</sup> process in that matter. Further, in the instance cited by the petitioner, namely, regarding the appointment of one Swapan Kumar Gerai, it does not appear that his mother or any other relative was already given an appointment on compassionate ground. Thus the case of Swapan Kumar Gerai is quite distinguishable and the petitioner cannot claim any compassionate appointment on the ground that Shri Gerai was appointed <sup>in similar circumstances</sup> on such ground.

7. For the reasons stated above, we see no merit in this application which is rejected.

8. No order is made as to costs.

  
(M. S. Mukherjee)  
Administrative Member

  
(A. K. Chatterjee)  
Vice-Chairman