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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of order : 25.09.2000

O.A. No. 181/1997

Raja @ Dinesh son of Shri Nandlal [formerly Safaiwala (Carriage)], resident of Railway Medical Colony, C/o. Medical Superintendent, Northern Railway, Jodhpur, Quarter No. M 32 C, Jodhpur (Raj.).

... Applicant.

versus

1. Union of India through the General Manager, Northern Railway, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur.
3. Chief Medical Superintendent, Northern Railway Hospital, Jodhpur.

... Respondents.

Mr. N.K. Vyas, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

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BY THE COURT:

The applicant had filed this O.A. with the prayer that the respondents be directed to give appointment to the applicant on compassionate ground. The respondents be further directed to take suitable departmental action against Smt. Sushila and Shri Sohanlal for their misconduct.

2. Notice of the O.A. was sent to the respondents, who have filed their reply to which a rejoinder was also filed by the applicant.
3. I have heard the learned counsel for the parties and have gone through the case file.

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4. It is alleged by the applicant that applicant's father, Shri Nandlal, was working on the post of Safaiwala in the Railway hospital. He died while in service on 10.12.79. At the time of death of his father, the applicant was eight years of age. It is alleged by the applicant that he and his mother were dependent on Shri Nandlal. It is further alleged by the applicant that the mother of the applicant was given appointment on compassionate ground considering the fact that she would maintain the applicant, who was minor and was earlier dependent on Shri Nandlal. However, the mother of the applicant after having secured compassionate appointment, married one Shri Sohanlal and left the applicant to be cared by applicant's grand-mother. Since the mother of the applicant neglected to maintain the applicant, the applicant is entitled to get compassionate appointment on account of death of his father. Applicant's application in this regard, was rejected by the respondents on the ground that compassionate appointment was given to his mother and only one person can be appointed on compassionate ground against the vacancy caused due to death of the bread winner. The applicant has challenged the stand of the respondents on the ground that instead of taking disciplinary action against the mother of the applicant Smt. Sushila, for having secured compassionate appointment, giving false assurances to the authorities for maintaining the applicant, the claim of the applicant has been negatived. That the applicant's mother has violated the terms of appointment and failed to discharge her duties of maintaining the applicant, the applicant is without any job and is quite difficult for him to maintain himself and, therefore, his case is a fit case for compassionate appointment.

5. The respondents have filed their reply in which they have stated that Smt. Susheela was appointed on compassionate ground on account of death of Shri Nandlal, therefore, the present applicant cannot be appointed on compassionate ground on the same reasons against the same vacancy. The O.A. deserves to be dismissed.

6. Both the learned counsel for the parties have argued their case on the lines of their pleadings, which I have duly considered.

7. It is undisputed that the applicant's mother was given compassionate appointment on account of death of the applicant's father while in service. Therefore, against the same vacancy, the applicant cannot claim compassionate appointment. The right of compassionate appointment having once been recognised and satisfied by giving a person the compassionate appointment, cannot be <sup>re</sup>agitated. In this case, Smt. Sushila, was given compassionate appointment and, therefore, the applicant cannot secure compassionate appointment on the ground that she failed to maintain the applicant and married to a person. It is a settled law that a widow having secured compassionate appointment, if remarries, cannot be removed from service on account of such subsequent marriage. Therefore, neither the applicant can expect the authorities to remove Smt. Sushila from service nor can expect any action being taken against her. Needless to say that after remarriage of Smt. Sushila, the applicant was in receipt of family pension through his guardian as per rules. Applicant's father, who had died in 1979, when the applicant was 8 years old. This means that the applicant was more than 25 years of age, when he moved this O.A. Till then, he probably continued to receive his family pension. This is also a settled position that seeking appointment or compassionate ground is not an alternative to regular employment. Compassionate appointment is provided to a dependent of the deceased Railway servant to tide over the sudden loss of the bread winner and financial crisis. This opportunity cannot be explored as a means for employment.

8. Though it has not very clearly come on record as to when Smt Sushila married Shri Sohanlal, but from the complaints made to the competent authorities by the grand-mother of the applicant, it appears that on 07.01.85, the mother of the applicant and Shri Sohanlal eloped a

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then got married thereafter. If the applicant could manage to maintain himself for 12 years it can be safely concluded that there exists no compassion for such appointment. In Sanjay Kumar vs. State of Bihar & Ors., reported in 2000 (6) Supreme Today page 43, Hon'ble the Supreme Court held that "compassionate appointment - application at a time the applicant was minor - claim for post after attaining majority - rejection as time barred - justified - there cannot be reservation of vacancy till such time claimant becomes major after a number of years .....". In this case, situation is still worst. Compassionate appointment was given once to the mother of the applicant. This is his ill luck that she neglected the applicant and left him to survive by himself, therefore, the applicant is not entitled to claim appointment on compassionate ground for the reasons mentioned above. The O.A. is devoid of any merits and deserves to be dismissed.

9. The O.A. is, therefore, dismissed with no order as to costs.

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25/9/2000

( A.K. MISRA  
Judicial Member

cvr.

Copy 02  
original copy order  
the officiant under date 25/5/99  
order no 33  
AD, 21/11/2002  
21/11/2002

R/copy  
date 29/9/99  
(By (J/Comandor)

Part II and III destroyed  
in my presence on 10.6.07  
under the supervision of  
section officer (J) as per  
order dated 10/11/06  
Naren  
Section officer (Record)