

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH : JODHPUR

Date of order : 25.02.2000

O.A. No. 13/1998

Kapoor Ram son of Shri Bhika Ram aged 21 years resident of village Padarla, Tehsil Bali, District Pali, last working as Gangman under PWI, Western Railway.

... Applicant.

v e r s u s

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, Western Railway, Ajmer.

... Respondents.

Mr. Vijay Mehta, Counsel for the applicant.

Mr. S.S. Vyas, Counsel for the respondents.

CORAM:

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

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. A.K. Misra)

The applicant has moved this application with the prayer that the impugned order dated 27.11.97 (Annexure A/1) be quashed and the respondents be directed to give appointment to the applicant on compassionate ground from the date of Annexure A/1 with all consequential benefits.

2. Notice of the O.A. was given to the respondents who have filed their reply to which no rejoinder was filed.

3. We have heard the learned counsel for the parties and have gone through the case file.

*Am*

4. In fact, there is no dispute relating to the facts of the case. The only dispute as raised by the applicant is that his candidature was not properly considered by the respondents and it has wrongly been held that he is not entitled to appointment on compassionate ground.

5. Learned counsel for the applicant has argued that compassionate appointment cannot be refused to the applicant on the ground that he was in receipt of family pension and had also received pensionary benefits of the deceased. It has been argued by him that all the circumstances should be considered by the competent authority before the prayer for appointment on compassionate ground is turned down. He has cited (1995) 30 ATC 351, Rishalo and another vs. Union of India & Others and (1996) 33 ATC 583, G.B. Yerwa (Mrs.) and another vs. Union of India & Others. On the other hand, the learned counsel for the respondents has argued that the appointment on compassionate ground cannot be provided as of right. It is provided only to help a penurious family and not to provide an employment to the members of the family of the deceased. It was also argued that the applicant is the third son of the deceased. Two elder sons of the deceased were already gainfully employed and it is difficult to believe that the elder brothers would not help the younger brother. Moreover, one-fourth ( $\frac{1}{4}$ ) retiral benefits were also provided to the applicant. Considering all these aspects of the case, the applicant is not entitled for appointment on compassionate ground.

6. We have considered the rival arguments. In our opinion, the appointment on compassionate ground cannot be denied simply because the terminal benefits and family pension were granted to the applicant. The employer has to take a balanced view by taking into consideration other factors also. In this case, the applicant has stated that his elder brothers are living separately and are not maintaining him. One-fourth retiral benefits are about Rs. 25,000/-. This sum cannot be termed as large amount so as to deny compassionate appointment to the applicant. Both the elder brothers of the applicant have their own family to maintain and, therefore, the case of the applicant was required to be considered independent of these facts. From the impugned order it appears that these aspects were not considered by the concerned authority. It was observed that only penurious condition entitles a candidate

30

11

for appointment on compassionate ground. There is no conclusion about non-penurious condition of the applicant in the instant case contrary to the facts alleged by him seeking compassionate appointment.

7. In our view, the candidature of the applicant for appointment on compassionate ground deserves to be reconsidered. Therefore, the O.A. deserves to be accepted.

8. The O.A. is, therefore, accepted. The respondents are directed to reconsider the case of the applicant for appointment on compassionate ground due to death of his father, Bhika Ram, within a period of three months from today in the light of the above discussion.

9. Parties are left to bear their own costs.

*Gopal Singh*  
( GOPAL SINGH )  
Adm. Member

*A.K. Misra*  
25/11/2000  
( A.K. MISRA )  
Judl. Member

cvr.