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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Date of Order : 28th May, 2002.

ORIGINAL APPLICATION NO. 136/2002

Manohar Lal Sharma S/o Late Shri Bhanwar Lal Sharma, aged about 35 years, Resident of Village Segwa, Post Senth, District Chittorgarh (Raj), Last posted as Waterman at Nathdwara, Udaipur.

.....Applicant.

versus

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Ajmer (Raj).

.....Respondents.

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CORAM :

Hon'ble Mr. S.K. Agarwal
Judicial Member

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Mr. N.R. Choudhary, Advocate, is present for the applicant.

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O R D E R

BY THE COURT :

In this O.A. filed under section 19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to quash and set aside the impugned order dated 9th October, 2001 (Annex.A/1) and to direct the respondents to consider the candidature of the applicant for appointment on compassionate ground according to his qualification.

2. The case of the applicant is that the father of the applicant was died on 12th May, 1971 while in service as Waterman at the

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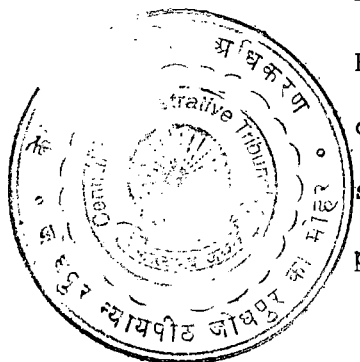
Nathdwara Railway Station and a family pension to the widowed mother of the applicant was granted vide order dated 24th August, 1971 placed at ~~xxx~~ Annex. A/3. It is stated that widowed mother submitted an application to appoint her eldest son Manohar Lal (applicant), on 11th October, 1985 as soon as he passed his secondary school examination, but he was not considered. Thereafter, so many representations were filed and the last representation was rejected by the respondent - department vide the impugned order at Annexure A/1. It is stated that applicant has dire necessity for appointment on compassionate ground, therefore, prayer has been made to consider the candidature of the applicant for appointment on compassionate grounds.

3. Heard the learned lawyer for the applicant and perused the records.

4. In Umesh Kumar Nagpal Vs. State of Haryana (1994) 4 SCC 138, a Bench of two judges has pointed out that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis, the object is not to give a member of such family a post much less a post held by the deceased.

5. In Jagdish Prasad Vs. State of Bihar (1996) 1 SCC 301, Hon'ble the Supreme Court has observed that the very object of appointment of a dependent of the deceased employee who died in harness is, to relieve unexpected immediate hardship and distress caused to the family. In the case of Union of India Vs. Bhagwan Singh 1995 (6) SCC 476, In Haryana State Electricity Board & Anr. Vs. Hakim Singh, JT 1997 (8) SC 332 and in Haryana State Electricity Board Vs. Naresh Tanwar 1996 (2) SLR SC 11, Hon'ble the Supreme Court has taken a similar view.

6. In the case of State of U.P. Vs. Paras Nath, AIR 1998 SC 2612,



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Hon'ble the Supreme Court set aside the judgement of Allahabad High Court and laid down as under :-

The purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of a deceased Government servant. None of these considerations can operate when the application is made after a long period of time such as seventeen years in the present case."

7. In Sanjay Kumar Vs. State of Bihar, AIR 2000 SC 2782, it has been laid down that such reservation on compassionate grounds are made only with an intent to provide immediate relief to the family of the deceased employee. There cannot be a reservation of a vacancy till such time as petitioner becomes major after a number of years unless, there is some specific provision. The very basis of compassionate appointment is to see that family gets immediate relief.

8. In Narayan Bhattacharya & Anr. Vs. U.O.I. & Ors., ATJ 2000 (1) 601, the Calcutta Bench of the Tribunal held that claim of appointment by the son of the deceased Government employee on compassionate grounds is not sustainable because nearly 8 years have already expired after the death of Government employee, therefore, emergent nature of crisis on account of death of employee cannot be said to have continued till now. Hence, the family cannot be said to be in considerable financial stringency.

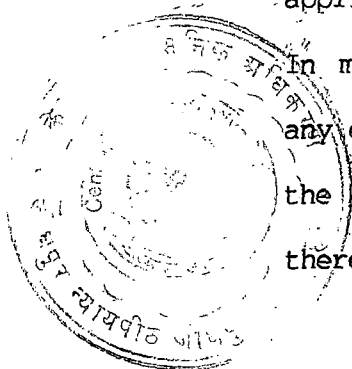
9. In the instant case, admittedly, the deceased employee died on 12th May, 1971 while in service and the date of birth of the applicant as per his own version is 5th August, 1966. The applicant

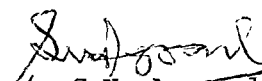


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is about to complete 37 years of age. Therefore, in view of the facts and circumstances of the case and as per the legal position, the applicant has no case as the emergent need of the applicant is over.

In my considered view, the respondent-department has not committed any error in rejecting the representation filed by the applicant vide the impugned order dated 9th October, 2001 (Annex.A/1). I, therefore, dismiss this O.A. in limine having no merits.




(S.K. Agarwal)
Judl. Member

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unhanded
A.S.N.
31/5/02

Copy of order along with 0A ETS

Answer sent to R & 2

176 to 177 Ji 03/6/2002

Part II and III destroyed
in my presence on 13-2-02
under the supervision of
section officer as per
order dated 14/5/02

Section officer (Record)

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