

CENTRAL ADMINISTRATIVE TRIBUNAL

OA No. 58/2013

Jodhpur, this the 13th day of December, 2013

CORAM :

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Hon'ble Ms. Meenakshi Hooja, Member (A)

Navratan S/o Shri Lachhi Ram aged about 31 years resident of Village and Post Loha, Tehsil Raangarh, District Churu, his father was last employed on the post of Store Chowkidar, in the Office of Senior Section Engineer (P.Way), Suratgarh, N.W.R.

..Applicant.

(Through Adv.Mr. J.K.Mishra)

Versus

1. Union of India through General Manager, H.Q.Office, North Western Railway, Malviya Nagar Near Jawahar Circle, Jaipur .
2. Divisional Railway Manager, N.W.R., Jodhpur Division, Jodhpur.
3. Senior Divisional Personnel Officer, NWR, Jodhpur Division, Jodhpur.

...Respondents.

(Through Adv. Mr. Kamal Dave)

ORDER

Per K.C.Joshi, Member (J) :

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 in which the applicant has sought the following reliefs :-

“(i)That impugned order dt. 24.5.2012 (Annexure A-1) and order dated 7.8.2012 (Annexure A/2) may be declared illegal and the same may be quashed. The respondents may be directed to reconsider the candidature of the applicant for compassionate appointment as per her merit position, as per rules in force and allow all consequential benefits.

(ii)That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.”

(iii)That the costs of this application may be awarded.”

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It has been averred in the OA that the father of the applicant i.e. Shri Lachhi Ram served in the respondent-department during the period from 01.03.1975 to 24.07.2007 on the post of Gateman and was a regular employee. It has been further averred that the father of the applicant was retired from service on 24.07.2007 on medical grounds while holding the post of Chowkidar and a certificate to this effect was issued by the competent authority on 31.08.2007.

Earlier, the father of the applicant was declared unfit for the post of Gateman on 19.10.2000 and he was decategorised and given alternative employment on the post of Chowkidar at Rest House under the AEN, North Western Railway, Degana in January 2001. Later, on his own request he was transferred from Degana to Suratgarh on 03.04.2003 where he worked as Store Chowkidar. There his physical/health condition got further deteriorated and he was not in a position to walk or move therefore in the beginning of the year 2007 he moved an application for voluntary retirement on medical grounds through proper channel and requested to offer appointment on a suitable post for his son. In accordance with Circulars RBE No. 78/2006 and also RBE No. 165/2006 the father of the applicant was allowed to retire and accordingly w.e.f. 24.07.2007 he was granted service pension and other retiral benefits. In view of having no other source of income except the meager pension and a large dependent family, the applicant being senior secondary examination passed, filed an application on 24.10.2008 for compassionate appointment and accordingly submitted

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requisite details to the competent authority. The applicant also filed a notice for demand of justice and was informed by communication dated 07.05.2010 that his case for compassionate appointment is still under consideration. The applicant then filed an OA No. 456/11 before this Tribunal and the same came to be disposed of by order dated 05.03.2012. The respondents rejected the claim of the applicant in a stereotyped manner as communicated vide letter dated 24.05.2012 (Annex.A/1). The applicant has been served yet another letter dated 07.08.2012 enclosing decision dated 25.10.2010. The family of the deceased employee and the applicant is in indigent condition and hence he prays for the relief mentioned in para No. 1.

The respondents in their reply averred that the present OA is outcome of previous directions in OA No. 456/2011 decided on 05.03.2012 for passing speaking order and the order impugned herein is outcome of compliance of direction for consideration. In the order the General Manager considered the grievance of the original applicant regarding compassionate appointment in view of the fact that his father namely Shri Lachhi Ram lastly served as Ex. Gatekeeper and who was medically decategorised on 19.10.2000 from the post of Gatekeeper in consonance with the statutory rules and guiding circulars. The case of the father of the applicant was considered and he was screened for substitute employment in view of medical categorization resulting in applicant's father being redeployed as Chowkidar. The father of the applicant after joining as Chowkidar made a request for his transfer which was accepted and as such grievance arising out of medical

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decategorization of applicant's father already stands redressed and the applicant cannot be allowed to get any other benefit except what has been granted. It has been further submitted that the father of the applicant applied for voluntary retirement vide communication dated 25.04.2007 which was accepted by the competent authority vide communication dated 18.06.2007 and made effective from 24.07.2007. It has been stated that the parameters applicable for compassionate ground appointment after death of the employee cannot be applied in the case of appointment on medical decategorisation and it is not in dispute that the Railway employee is getting whatever is due to him as a retired Railway employee and once having been medically decategorised and other alternative employment provided, compassionate appointment on the father's voluntary retirement to the son i.e. the applicant is not permissible as per Railway Board's decisions.

3. Heard the learned counsel for both the parties.

4. The counsel for the applicant contended that although the respondents passed an order dated Annex. A/1 dated by which the applicant was informed through a speaking order regarding the consideration of his case for compassionate appointment against the post of his father but, the competent authority has not passed it in the light of Annex.A/5 the Circular, issued by the Railway Board vide RBE No. 78/2006 and RBE No. 165/ 2006.

5. Per contra, the counsel for the respondents contended that the applicant's case was considered as per the above Railway Board's Circulars which have been referred to in the decision as at Annex.A/1

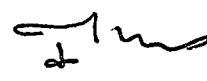
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and the position has been further clarified vide letter dated 07.08.2012 (Annex.A/2). However, the counsel for the applicant contended that in the speaking order, there is only a reference of the order of both the Railway Board's Circulars but actually his case has not been considered objectively in the light of the above Railway Board's Circulars.

6. As the matter relates to the compassionate appointment of a person who has sought voluntary retirement on medical grounds, therefore, looking to the entire facts and circumstances of the case, we are intending to dispose of this petition with the certain directions, as the case of the applicant was earlier considered in pursuance to the judgment of this Tribunal passed in OA No. 456 of 2011 on 5th March, 2012. The applicant is, therefore, directed to file a detailed representation again to the respondent-department within a month from the receipt of a copy of this order and the respondent - department shall consider the representation of the applicant in the light of the Railway Board's Circular RBE No. 78/2006 and the Railway Board's Circular No. 165/2006, within a period of six months from the receipt of the representation and inform the applicant of the decision taken. Accordingly, the O.A. is disposed of with no order as to costs.


(Meenakshi Hooja)

Member (A)


(K.C.Joshi)

Member (J)

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