

**CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH**

O.A. No. 497/05

Lucknow this the 1<sup>st</sup> day of May, 2007.

**Hon. Mr. Justice Khem Karan, Vice Chairman**

Manoj Kumar Srivastava aged about 36 years, son of late Harish Chandra Lal Srivastava, resident of village Pratappur, Post Bansi, District Siddhaqrth Nagar.

Applicant.

By Advocate Shri D.R. Sinha for Shri S.S.L. Srivastava.

Vs.

1. Union of India through Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager (Personnel), North Eastern Railway, Gorakhpur.
3. Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow.
4. Divisional Superintendent, North Eastern Railway, D.R.M. Office, Ashok Marg, Lucknow.

Respondents.

By Advocate Shri Umesh Srivastava for Shri M.K. Singh.

Order (Oral)

**By Hon. Mr. Justice Khem Karan, Vice Chairman,**

The applicant, claiming himself to be the son of late Shri Harish Chandra Lal Srivastava, who died in harness on 3.6.69, is praying for commanding the respondents to consider his appointment on compassionate grounds, as envisaged in Annexure-8.

2. His case in brief, is that his father was a Gangman at Barabanki Railway station and he died on 3.6.1969 while still in service. It is said that considering the poor financial condition of the family, his mother (mother of the applicant) was informed that as and when there would be vacancy, she would be given appointment on compassionate grounds but before she could get




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appointment, she also passed away on 17.2.1973. It is alleged that on attaining the majority in April, 1987, the applicant gave representation for his compassionate appointment. He claims that representations were repeated on 10.9.87, 8.1.88, 16.8.89, 12.7.90 and 30.7.90. It is averred that it was on 2.4.92 that one S.P. Singh from office of P.W.I. wrote a letter to him asking him to present himself before him in the office with necessary documents. According to him, Shri S.P. Singh wrote another letter dated 19.6.92 to the same effect and in compliance thereof, the applicant submitted necessary documents to him. The matter remained pending with the respondents and then he gave representation on 20.1.2005. When nothing was done by the respondents, he has filed this O.A.

3. The respondents have filed reply contesting the claim. It is said that according to the applicant himself, he was born on 1.7.1970, while his father died on 3.6.1969 and this creates serious doubt as to whether he was the son of late Shri H.C.L. Srivatava. It is also said that the applicant never submitted any application as alleged by him for compassionate appointment. According to them, one representation was received on 10.10.05 after a lapse of about 36 years of death of Shri H.C.L. Srivastava. They want to say that the applicant is bringing a stale matter after a lapse of so many years.

4. I have heard Shri D. Sinha holding brief of Shri S.S.L. Srivastava and Shri Umesh Srivastava holding brief of Shri M.K. Singh for respondents.

5. Shri Sinha has contended that it is evident from letter (Annexure A-1) written somewhere in March, 1970 that mother of



the applicant was given an impression that she would be given compassionate appointment on occurrence of vacancy in class IV. Shri Sinha says that in so far as the poor economic status of the family was concerned, the authorities found it such, which required assistance by way of compassionate appointment and so, after death of applicant's mother, the applicant should have been given that appointment in view of Boad's Supplementary circular No. 12 of M.C. No. 15 (A-8), as applicant has come just after attaining the majority and within a period of 20 years of death of his father.

6. The respondents have seriously disputed the factum of applicant's giving any application or representation earlier to 2005 for compassionate appointment. It is said that no such request from the side of the applicant was received on the dates stated in the O.A. except one received in October, 2005. It is also said that the fact that the applicant was born on 5.7.70 as claimed by him in his papers, runs counter to his claim that he was the son of Shri H.C.L. Srivastava, who died about 13 months before i.e. 3.6.69. It is also said that after lapse of 36 or 37 years, of death of Shri H.C.L. Srivastava, the question of giving compassionate appointment to the applicant does not appear to be in conformity with the spirit of the office circular, letters and the latest judicial pronouncement of the apex court. Shri Srivastava has submitted that if the family could sustain itself for all these 35 or 36 years, after death of Shri H.C.L. Srivastava, there is no good reason to say that he is in need of any compassionate appointment.

7. After having considered the respective submissions, the material on record and the circular (A-8) <sup>S</sup>and relied on by the



applicant, the Tribunal is of the view that it is not a fit case where it should ask the respondents to consider the case of the applicant for compassionate appointment. It stands well settled after catena of recent judicial pronouncements of the apex court that compassionate appointment is not a regular source of recruitment, <sup>and</sup> is by way of exception, just to assist the family to tide over the sudden crisis created by death of bread earner. If the family could sustain itself for all these 35 or 36 years, there is no good reason for compassionate appointment. The mere fact that the mother of the applicant was asked to wait for compassionate appointment, on occurrence of vacancy, will not be a good weapon for the applicant to claim his compassionate appointment after lapse of more than 35 years. It also transpires from his own pleadings that he himself slept over the matter after 1992 to 2005. By now the applicant has reached the age of 36 or 37 years. He must be pulling on the family by the means that may be available to him.

8. The O.A. being devoid of merit is dismissed. No order as to costs.

  
01/11/07  
Vice Chairman

s.a.