

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.62/2007

This the 5th day of September 2008

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Bipin Behari, aged about 31 years, son of Late Chandrika Pandey, R/o Village Amari, post Bautha, District Gorakhpur.

...Applicant.

By Advocate: Shri D.S. Yadav.

Versus.

1. The Union of India, through Ministry of Railway, Government of India, North Eastern Railway, New Delhi.
2. Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow.
3. Chief Security Commissioner, Rail Security Force, North Eastern Railway, Gorakhpur.
4. Assistant Security Commissioner, Rail Security Force, North Eastern Railway, Gorakhpur Area, Gorakhpur.

...Respondents.

By Advocate: Shri D. Shukla for Shri P. Kumar.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed OA with a prayer to quash the order Dt. 15.2.2002 (Ann.A-1) and issue direction to the respondents for his appointment on compassionate ground in accordance with his qualifications. The applicant also filed an application for condonation of

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↳ delay in filing OA stating that because of family problems there was delay.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that the claim of the applicant was considered for compassionate appointment in RPF department in which, he was not found suitable and thus opposed the claim of the applicant. The respondents also opposed the claim of the applicant for condonation of delay in filing OA.

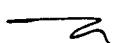
3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and also reiterated his pleas of OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the father of the applicant Late Chandrika Pnadey, while working in RPF, Gorakhpur in the office of Respondent No.4 fell sick and on medical examination by the Medical Board on 07.07.1999 , he was declared unfit for all the categories of duty in railway service. Because of which, he took compulsory retirement on 07.07.1999 (Ann.-5). Thereafter, he died on 19.08.2002. The applicant made a representation to the respondents authorities for his appointment on compassionate ground that his father given compulsory retirement but they have rejected the same on 15.02.2002 (Ann.-A-1), against which he preferred the present OA on 08.02.2007 alongwith an application for condonation of delay in filing OA.

7. It is also the case of the applicant that similarly situated person Bindeshwari Prasad, was given compulsory retirement and upon which, his son Bhagwan Din, made an application for compassionate appointment the same was rejected on 16.08.2002 and against which when he filed an O.A. No. 21 of 2003 on the file of this Tribunal,, the



same was allowed by this Tribunal on 12.12.2003, giving direction to the respondents to consider the claim of the applicant for compassionate appointment within two months from the date of receipt of a copy of this order (Ann.-A-11) and in pursuance of such direction the respondents also appointed Bhagwan Din son of Bindeshwari Prasad. Ann.A-12 is the copy of appointment letter of Shri Bhagwan Din.

8. In the case of another employee Rajesh Kumar Tewari, who was also similarly situated person of the applicant was given appointment on compassionate ground as per direction of this Tribunal in O.A.No.300/2005 Dt. 28.10.2005 (Ann.-A-13). Thus, the applicant submitted that he is also entitled for compassionate appointment but the respondents have refused the same, which is illegal and unreasonable and discriminatory.

9. The respondents have denied the claim of the applicant on the ground that he filed this OA on 08.2.2007 after rejection of his claim under Ann.-A-1 Dt. 15.2.2002 and as such, the OA is barred by limitation and further stated that the applicant was considered for compassionate appointment in R.P.F. department but he was not found suitable for the post of Constable, in RPF and relied on Ann.-A-9, which was the letter written by the father of the applicant, admitting that his son was not selected for the post of RPF Constable through, he was called for interview for his appointment on compassionate appointment.

10. From the pleadings of the parties, it is clear that the case of the applicant was considered for the post of RPF Constable even during the life time of his father but he was not selected and the same is admitted by the applicant himself by filing Annexue-A-9. From this, it is clear that the respondents have considered the case of the applicant for compassionate appointment but, it was rejected

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because of his non-suitability. Thereafter, the applicant has not challenged the said rejection order.

11. The applicant filed this OA against the rejection order Ann.-A-1 Dt. 15.2.2002 with condonation of delay application stating that because of the death of his father and prior to it, his father was ill and his sister was also suffering from ill health and due to family problems, he did not file OA immediately after rejection of this case on 15.2.2002 and thus caused delay. Admittedly, the claim of the applicant is for compassionate appointment, which the respondents have to consider and provide such post, as per the scheme provided within limited period of such claim. The applicant without challenging the rejection order Ann.-A-1 Dt. 15.02.2002. Immediately, he filed this OA after a lapse of 5 years and as such the reasons are not justified for condoning the delay. since, the scheme for the appointment under compassionate ground stipulate that certain conditions i.e. in respect of submitting application and also for consideration of such claim within a limited period. In such circumstances, the ground stated by the applicant that because of family problems there was delay of 5 years in challenging the rejection order Dt. 15.02.2002 is not at all sustainable and in the claims of compassionate appointment, if such delay are condoned, there will be no end for litigations and further, it also causes prejudice to the deserving candidates during such period. Thus, there are no merits in the claim of the applicant for condoning the delay in filing the OA.

12. The learned counsel for the applicant also argued that the authorities have not considered his claim in the light of Circular Dt. 11.4.2002, which is in respect of compassionate appointment to the employees of medically de-categorized officers but the same is not the subject matter and he did not challenge such of his rejection order

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– wherein he was disqualified for the post of RPF Constable during the year 2002.

13. In view of the above circumstances there are no merits in the claim of the applicant and further his claim is also barred by limitation and as such, the OA is liable for dismissal.

In the result, OA is dismissed. No costs.


(M. KANTHAIAH)
Member (J)
05-09-08

/amit/