

(15)

(R)

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
LUCKNOW

(1) O.A. No. 253/90

Pyare Lal Gaur and another

Applicants.

versus

Union of India & others

Respondents.

(2) O.A. No. 399/90(L)

Am. Aparna Gaur

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

As the above two applications have been filed together and have common questions of law are involved, the same are being disposed of with a common judgment. Shri Pyare Lal Gaur in view of the technical defect in the case of daughter of the applicant filed a separate application, may be separate relief alongwith one relief which was been claimed by earlier applicant. The applicant Shri Pyare Lal Gaur who was appointed in the year 1950 and his date of superannuation was 31.7.87 and at the relevant point he was, while on duty, met with an accident on 1.11.86 as some miscreants caused injury on the head of the applicant by throwing stone.

Railway  
He was treated in the hospital, but injury caused adverse effect on brain and nerves and he was given medical certificate.

2. He was medically decategorised from A-2 to C-2. According to the applicant it was open for him either to accept alternative employment equal in post or to accept retirement and there was no possibility of suitable alternative employment and that is why he chose to accept the retirement and his application dated 15.5.87 was not acted upon and the applicant was retired on 31.7.87. From the file appears that 10 days prior to his retirement the applicant was called to appear before the Standing Committee for alternative employment. If the applicant would have appeared before the committee and the committee taken a decision the applicant could not have been retired. The so called notice recalling the applicant for appearing before the Standing Committee is nothing but a shell offer which was never materialised. The applicant also accepted the retirement before that date as due intimation was given and such type of offer was not to be given and the applicant's decision was already conveyed. The applicant applied for compassionate appointment of his daughter which was not granted and that is why he approached the Tribunal with the prayer that he should be deemed to have retired on 15.5.87 on account of medical decategorisation and incapacitation in accident on duty and payment of arrears of pension with effect from 15.5.87 to 31.7.87 may be paid and prayer regarding compassionate appointment of his daughter be granted (though the application has been filed

(P8)

separately. The applicant finding that he is unable to work after head injury ~~which is~~ to retire from service only two months before attaining the age of superannuation stating that in accordance with rules compassionate appointment may be given to his daughter and the Railway Administration, when he was at the verge of retirement asking to appear before Standing Committee but no alternative appointment was not given appointment. One must appear before the committee was a condition precedent. Such public bodies are not supposed to give shell offers and offer must have been given when he was not allowed to retire. There was no sense in giving offer whatsoever. There was rather no offer and no offer should have been given to him. The question arises as to whether the compassionate appointment could be given to the applicant's daughter or not. The decision of the Railway Board in this behalf, placed by the respondents on record, reads as under:

"When Railway employees become crippled while in service or develop certain ailments like heart disease, cancer etc or medically declassified for the job, they are holding and no alternative job of the same emoluments can be offered to them"

According to the applicant, as he was medically declassified and no alternative job of the same emoluments could have been offered to him. The fact which

(P)

was mentioned in application when he sought retirement the Railway Administration was obliged to give ~~him~~ <sup>the</sup> job to the daughter of the applicant. On behalf of the respondents it has been contended that the compassionate <sup>appointment</sup> is given to the persons who become crippled while in service or develop certain ailments like heart disease and cancer etc. and on the discretion of the authority concerned. He was asked to appear before the standing committee which he did not attend. The respondents should have considered the prayer of the applicant for compassionate appointment. So far as salary for three months is concerned we find that this period was treated <sup>and</sup> as leave/inaccordance with rules the applicant is not entitled to any salary.

In view of what has been stated above the Application No. 253/90 'Pyarey Lal Gaur vs. Union of India' is dismissed and the respondents are directed to trace the possibility of ~~case~~ of appointment of ~~the~~ <sup>1.</sup> daughter of the applicant.

With the above directions both the applications are disposed of. No order as to costs.

*Ansari*  
A.M.

*Ansari*  
V.C.

Shakeel/

Lucknow: Dated: 26.5.92.