

Central Administrative Tribunal Lucknow Bench Lucknow.

O.A. 338/2006

Lucknow, this the 3 day October, 2008

Hon'ble Mr. M. Kanthaiah, Member (J)

Vijay Bahadur Singh,
Aged about 34 years,
Son of Late Sri Vikram Singh,
Resident of Village & Post Rajapur,
Pure Beni Prasad Purwa, Paraspur,
Karnail Ganj, District Gonda.

Applicant.

BY Advocate Sri P.K. Singh.

Versus

1. Union of India, through Secretary,
Department of Railways.
2. Divisional Railway Manager (Commercial),
Northern Eastern Railway, Lucknow."
3. Chief Catering Inspector,
Northern Eastern Railway,
Lucknow.
4. Regional Manager, Indian Railway Catering and
Tourism Corporation, 266/NZ, Chintals House,
16, Station Road, Lucknow.

Respondents

By Advocate Sri V. K. Khare.

Order

BY Hon'ble Mr. M. Kanthaiah, Member (J)

The applicant has filed O.A. to set aside the impugned order dated 07/10/2005 (Annexure A-1) issued by the Respondent No. 2 and also direct the authorities for appointment of the applicant as Commission Vendor on compassionate ground on the following grounds:

- (i) The respondent No. 2 has not at all considered the case of the applicant and passed the impugned order dated 7.10.2005 on unfounded reasons and without applying his mind.

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(ii) One Vinod Kumar Sonkar was given appointment vide order dated 12.5.2003 on compassionate ground in the place of his father late Sir Ram Autar who was a Commission Vendor.

(iii) The applicant's family is in grave financial crisis and forced to lead painful, meaningless and undignified life.

2. The respondent No 1 to 3 have filed counter affidavit denying the claim of the applicant stating that the second respondent is not competent to make any appointment in respect of Commission Vendor and Indian Railway Catering and Tourism Corporation is the competent authority has not been made as a party in the O.A. and as such, the O.A. is liable for dismissal.

3. Subsequently, the applicant has impleaded Regional Manager, Indian Railway Catering and Tourism Corporation, Lucknow as Respondent No. 4 and he filed his counter affidavit stating that the appointment on compassionate ground to the wife/children in case of death of Commission Vendor is made by the Indian Railway, Government of India and relied on OM dated 7.6.2007 issued by the Director, Establishment (N) (II) Railway Board, Ministry of Railways (Annexure C-1).

4. The applicant has filed rejoinder denying the stand taken by the respondents.

5. Heard both sides.

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

7. The admitted facts of the case are that the father of the applicant Sri Vikram Singh died on 10.3.2005 while he was working as Commission Vendor in the office of Respondent No. 2 leaving behind his wife, the applicant and one daughter. Thereafter, the applicant along with his mother made representation to the respondent No. 2 for appointment of the applicant on

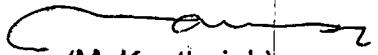
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compassionate ground and the same was rejected vide order dated 7.10.2005 (annexure A-7) which is under challenge in this O.A.

8. The Respondent No. 1 to 3 have filed their counter affidavit stating that they are not empowered to make appointment on compassionate ground in respect of legal heirs of Commission Vendor but after impleading the department of Indian Railway Catering and Tourism corporation, they have taken stand that the appointment of the children of Commission Vendor on compassionate ground is within the preview of the second respondent and in support of it, he also filed O.M. dated 7.6.2007 (Annexure C-1) in respect of appointment to the wife/ward/ legal heir in case of death of Commission Vendors/bearers issued by Ministry of Railways. It clearly shows that in case, those Commission Vendors/bearers, who absorbed as Group 'D' staff on Railways, compassionate appointment to their wife/ward/legal heir will be permissible as per extant rules in case of their death or medical unfitness before their retirement vide letter dated 1.12.2005 of the Ministry of Railways. It also shows that in the PNM meeting with Board, there was demand that compassionate appointment be considered in favour of wife/ward/legal heir in case of death of Commission Vendor/bearer, who are not screened/ absorbed and died prior to their absorption. Pursuant to the discussion on the issue, the matter has been considered by the Board and it has been decided that General Manager may consider appointment in Group 'D' only in favour of ward/widow in case of death of commission vendor/ bearer who was eligible for absorption in the railways but died before his absorption(at the time of death he was below 59 years of age as on or before 1.4.2005 and could read and write as stipulated vide Ministry letter No. 2004/ 2.8.2005) subject to certain conditions.

9. From the above O.M dated 7.6.2007, General Manager of the Railway is the competent authority to consider the claim of the legal heir of Commission Vendor/ward/bearers, who was eligible for absorption in the Railways but died before his absorption.

10. In the instant case, it is not at all the case of the applicant that his deceased father was absorbed as Group D staff of Railways and also it is not his case that his father was eligible for absorption in the Railways but died before his absorption as required under the terms and conditions of Ministry letter No. 2004/2.8.2005. Without satisfying the required conditions of the Railway authorities, the applicant he being the son of the deceased Commission Vendor, is not entitled for seeking the appointment on compassionate ground. Before seeking such compassionate appointment, it is the duty of the applicant to satisfy the requirements covered under the Ministry letter dated 2004/2.8.2005 and also OM dated 7.6.2007, but none of the requirements have been satisfied by the applicant as such, he is not justified in challenging the impugned order issued by the respondent No. 2. Thus there are no merits in the claim of the applicant for seeking compassionate appointment.

11. In the result, O.A. is dismissed. No costs.


(M. Kanthaiah)

Member (J)

03-10-2008

v.