

**Central Administrative Tribunal, Lucknow Bench,
Lucknow**

Original Application No. 165/2008

This the 18th day of December, 2009

Hon'ble Dr. A.K. Mishra, Member-A

Gyan Prakash, Aged about 40 years, S/o Sri Thakur Prasad,
R/o Village Dihua, Post Dadevara, Pargana Machhreta,
Tehsil Misrikh, District Sitapur.

.....Applicant

By Advocate: Sri Praveen Kumar.

Versus

1. Union of India through Secretary, Ministry of
Railway Department, New Delhi.
2. D.R.M., N.R., Moradabad.
3. Rail Path Nirikshak, Balamau, Hardoi.

.....Respondents

By Advocate: Sri B.B. Tripathi for Sri N.K. Agarwal

ORDER

This application has been made challenging the rejection order dated 3.7.2007 of respondent no.2 passed on the application for compassionate appointment.

2. The applicant's brother was an employee of Northern Railway. He died on 29.6.2004 while in service. Since the deceased employee was bachelor, he had nominated his brother (the present applicant) towards his Provident Fund amount. After his death on 29.6.2004, the applicant represented on 10.5.2005 to the respondent no.2 for compassionate appointment followed by three more representations dated 18.8.2005, 21.5.2007 and 22.8.2008. However, his representations were rejected by the impugned order communicated in the letter dated 3.7.2007 (Annexure-1).

3. The grounds taken by the applicant are: that he was the nominee of the deceased employee Mahadeo Prasad and was totally dependent on him; that the documents relating to his education had been verified by the respondent-



authorities; that even in spite of giving pleader notice, no action was taken and ultimately the impugned letter communicating the illegal and arbitrary decision of the respondents was intimated.

4. The respondents have claimed that the applicant was overaged being 37 years of age at the time of making the application and currently had crossed 39 years of age. Further, a brother can be treated as a dependent until he is 21 years old. Once he has passed this age, he is no longer a dependent on a Government employee so as to claim the benefit of compassionate appointment.

5. The learned counsel for the applicant submits that the Railway Pass Rules, which was relied on, for the respondents' contention that a brother is not a dependent was not applicable in respect of compassionate appointment. On the other hand, the relevant instructions are embodied in the letter dated 7.4.1983 of the Railway Board, which says that in the absence of a son or a daughter, a near blood relative could be given the benefit of compassionate appointment. The applicant being brother of the deceased employee was eligible for the purpose. He also relied on some commentary to indicate that the maximum age limit for a general candidate is 40 years of age. While going through the papers filed by the applicant's counsel, it is seen that the maximum age limit for a general candidate is 30 years, but could be relaxed for three years for OBC candidate and 05 years for SC/ST candidates. The reference regarding 40 years of age is in respect of those candidates who had already rendered service in the railways continuously for three years in some other capacity. Apart from being over aged, it has been mentioned in the impugned letter that he is a married person having four children, which goes on to show that he has been supporting his family all these years.

6. His application does not indicate whether the family was reduced to level of indigence due to sudden death of his brother Mahadeo Prasad. The settled law is

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that compassionate appointment cannot be demanded as a matter of right. It is special dispensation granted by the Government to relieve the extreme financial distress faced by the family due to sudden death of its bread winner. In the present case, the deceased employee was a bachelor, he has not left behind any widow or minor children to be looked after. From the tenor of the arguments presented in the application, it appears that the applicant is claiming compassionate appointment as a matter of right.

7. In view of the above, I do not find sufficient ground to interfere with the decision of respondent-authorities. Accordingly, the O.A. is dismissed. No costs.

(Signature) 18/12/09
(Dr. A.K. Mishra)
Member-A

Girish/-