

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

**Original Application No. 285/2008**

This the <sup>16</sup>27 day of November, 2009

**Hon'ble Ms. Sadhna Srivastava, Member (J)**

Raghav Prasad aged about 40 years son of late Ayodhya resident of Village Sikri Meera, P.O. Persa Udaikar, District-Gonda.

Applicant

By Advocate: Sri Mayankar Singha

**Versus**

1. Union of India through the Secretary, Department of Railways, New Delhi.
2. Divisional Railway Manager (P), North Eastern Railway, Izzat Nagar, Bareilly.

Respondents

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

**ORDER**

**Hon'ble Ms. Sadhna Srivastava, Member (J)**

The applicant is aggrieved with the order dated 30.11.2006 and 31.3.2008 passed by the competent authority rejecting the claim finally for appointment on compassionate grounds.

2. The facts, in brief, are that the applicant's father while working as Trackman under the control of Section Engineer at Kannauj died in harness on 31.12.2005 leaving behind the only son i.e. the applicant.

3. The wife of the deceased employee was pre-deceased. After the death of his father, the applicant received an amount of Rs. 1,80,900/- towards terminal benefits. He filed an application on 21.6.2006 for appointment on compassionate ground, which was rejected by the respondents vide order dated 30.11.2006 (Annexure No.1) again he filed representation for appointment on compassionate ground which was rejected vide



order dated 31.3.2008 (Ann. NO.2). Hence this Original Application.

4. The applicant has challenged the impugned order mainly on the ground that the applicant's claim was rejected illegally without considering the economic condition of the applicant, that he is the only son and is fully eligible to be appointed on any Group 'D' post.


5. The respondents have filed counter reply stating therein that the applicant's claim for appointment on compassionate ground was rejected vide order dated 30.11.2006. He again filed representations which was again rejected on 2.1.2007 and 31.3.2008. The order dated 31.3.2008 is merely repetition of order dated 30.11.2006. Therefore, it does not give fresh cause of action. Hence the Original Application is barred by time. It is further stated that the applicant is the only son who is aged about 40 years and deceased employee has not left any other responsibility. Therefore, the applicant's claim for compassionate appointment has rightly been rejected.

6. Heard the learned counsel for the parties.

7. The claim for compassionate appointment is an exception to the Rule of public appointment. A limited quota of 5% has been provided for the same. Based on the financial condition of the family of the deceased and liability left behind, the claim for compassionate appointment is considered. The facts as they appear on record are that the applicant is the only son and his father died in the year 2005. He left behind the only son. To take into account the financial conditions of the family, it has been observed that Rs. 1,80,900/- was paid to the applicant as terminal benefits. The applicant <sup>is</sup> having 3 Bighas of agricultural land. The applicant has failed to demonstrate that his family was placed in more indigent condition than the others. The only



measurement of providing such appointment is to take into account the liability of the deceased at the time of his death, the size of family, the terminal benefits and other financial support for the family. There is no school going child and unmarried daughter left by the deceased employee. Merely, the applicant is unemployed, it does not mean that he is entitled for compassionate appointment. At the time of death of his father, <sup>he</sup> the applicant was grown up as is stated to be 37 years old. He ought to have been engaged by that time. I do not see any illegality in the order passed by the respondents. Accordingly, O.A. is dismissed without any order as to costs.

  
(Ms. Sadhna Srivastava)  
Member (J)

HLS/-