

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 510 of 2010

Reserved on 11.7.2014

Pronounced on 25th July, 2014

Hon'ble Ms. Jayati Chandra, Member-A

Mahesh Kumar Verma, aged about 20 years, S/o late Ori Lal, R/o V-Harraiya Post Bhallia Bujurg, District Lakhimpur Kheri

.....Applicant

By Advocate : Sri Dhermesh Sinha.

Versus.

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. DRM, NER, DRM Office, Ashok Marg, Lucknow.
3. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow.

.....Respondents.

By Advocate : Sri D.B. Singh for Sri Rajendra Singh.

ORDER

The applicant has filed this Original Application under Section 19 of Administrative Tribunals Act, 1985 seeking the following relief(s):-

- (i) *"The Hon'ble Tribunal may kindly be pleased to issue order or direction quashing/setting-aside order dated 4.9.2009 contained in Annexure no. A-1 to the O.A.*
- (ii) *The Hon'ble Tribunal may kindly be pleased to issue order or direction commanding upon the respondents to consider case of the applicant afresh for compassionate appointment.*
- (iii)
- (iv)"
- (ii)

2. The facts of the case, as averred by the applicant, that his father, who was working on the post of Trackman, died in harness on 19.1.2006. Thereafter, the applicant's mother moved an application before the respondents for appointment on compassionate grounds. The request of applicant's mother was acceded and she was issued offer of appointment on the post of Safaiwala, but she did not join and requested that her son may be considered for appointment on compassionate ground.

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Accordingly, the respondents vide letter dated 19.3.2009 called the applicant to appear in the screening test scheduled to be held on 8.4.2009 in which the applicant appeared. It is averred that after screening test, the applicant was sent for medical examination who opined that the age of the applicant was about 14 years and not 18 years as shown vide certificate dated 15.5.2009. The applicant refuting the finding of the medical authority has annexed a copy of school leaving certificate of Class VIII wherein his date of birth has been recorded as 15.3.1990 and has also annexed a copy of Pariwar Register issued by Panchayat Vikas Adhikari in which too, the date of birth of the applicant was recorded as 15.3.1990 demonstrating that the time of application, he was more than 18 years old. It is stated that the respondents have rejected the claim of the applicant for appointment on compassionate ground solely on the ground of alleged report of Medical Officer whereby the applicant was held to be under age at the relevant point of time without considering the school leaving certificate as well as Pariwar Register issued by Panchayat Vikas Adhikari; hence this O.A.

3. The respondents have contested the claim of the applicant by filing a detailed Counter Reply stating therein that the applicant's father, who was working under Section Engineer, P.Way, Lakhimpur Kheri, died on 19.1.2006. On the application moved by applicant's mother, she was offered for appointment on the post of Safaiwala, but she did not join and made a request vide application dated 22.12.2008 for appointment of her son on compassionate ground. The applicant submitted his school leaving certificate of Class VIII in which his date of birth has been recoded as 15.3.1994 whereas the Pariwar Register issued by Gram Panchayat Nipinia, District Lakhimpur Kheri on 15.4.2006, the date of birth of the applicant has been recorded as 5.7.1994. Accordingly, on the basis of the affidavit submitted by his mother, the case of the applicant was considered, but since there was a dispute with regard to age, the screening committee referred the matter to CMO, NER, Lucknow for age verification. On medical examination, the applicant was found to be 14 years of age. Lastly the respondents have stated that since the age of the applicant at the relevant point of time was below 18 years i.e. 14 years and accordingly his claim for appointment on compassionate ground has been rejected.

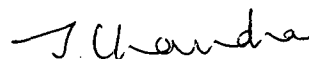
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4. The applicant has filed Rejoinder Reply denying the contentions of the respondents made in the Counter Reply and reiterating the stand taken in the Original Application.

5. I have heard the learned counsel for the parties and have also perused the pleadings on record.

6. The sole question which requires consideration in this case is that whether the applicant at the relevant point of time was 18 years or not. It is undisputed that in government service the minimum age for recruitment is 18 years. It is noteworthy to mention that the applicant, in support of his claim, has annexed a copy of school leaving certificate of Class VIII wherein his date of birth has been recorded as 15.3.1990; whereas in the Pariwar Register issued by Gram Panchayat Nipinia, District Lakhimpur Kheri on 15.4.2006 in which date of birth of applicant has been shown as 5.7.1994. Since there was two date of birth recorded in the aforementioned documents, the screening committee referred the matter before the Chief Medical Officer for age verification, who after medical examination, found the age of the applicant was of 14 years at the relevant time. It is settled preposition of law that for the purpose of determination of age, the High school certificate would be relevant and not other documents. Since the applicant was only VIII standard passed, then no credibility would be relied upon the school leaving certificate of Class VIII. Further, the Pariwar register issued by Gram Panchayat Nipinia, District Lakhimpur Kheri on 15.4.2006 in which too, the date of birth of the applicant has been recorded differently. In this view of the matter, the medical report submitted by the Medical Officer would be relevant for the purposes of determination of age, according to which, his date of birth was 14 years at the relevant point of time and as such he is below the minimum age for recruitment on direct recruitment i.e. 18 years.

7. In view of the above, the O.A. has no merit and is liable to be dismissed and is accordingly dismissed. No costs.



(Ms. Jayati Chandra)
Member-A