

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

21.9.2012

**OA 511 OF 2010**

Hon'ble Shri Navneet Kumar, Judicial Member

Kinder Lal, aged about 31 years, adopted son of Late Shri Samie, resident of-Gram & Post-Gautra, District-Hardoi

.....Applicant

(By Advocate Shri Praveen Kumar )

-V E R S U S-

1. Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway Moradabad.

.....Respondents

(By Advocate Shri B.B. Tripathi,)

**ORDER**

**Per Mr. Navneet Kumar, J.M.**

The present original application has been preferred by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- “1. To quash the impugned order dated 30.09.2010 contained as **Annexure no.A-1** with all consequential benefits.
  2. To consider the case of the applicant for appointment on compassionate ground with all consequential benefits.
  3. Any other relief, which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.
  4. Cost of the present case.”
2. The facts of the case are that the applicant's father died in harness on 30.09.2008 while he was in service. After the death of applicant's father the applicant moved an application for compassionate appointment. The respondents failed to take any decision on the applicant's representation, as such, he made subsequent representations but finally vide order dated 30.09.2010 case of the applicant was rejected by the respondents stating therein that the ex railway employee has not adopted the applicant and as per the Will



only the retrial dues were paid to you as such you are not entitled for compassionate appointment.

3. The ld. counsel appearing on behalf of the respondents filed their reply and in the reply it was pointed out by the respondents that the applicant's father was a bachelor and hence he was having no family whereas adopted son of the applicant who is the son of ex-employee's brother who applied for the compassionate appointment is not entitled for appointment. However, the respondents have pointed out that the retrial dues were paid to the applicant on the basis of the will executed by the ex-employee. It was also pointed out by the respondents that considering this fact the applicant is not entitled for compassionate appointment, as such, his claim was rejected by the respondents vide letter dated 30.09.2010.

4. Ld. counsel appearing on behalf of the applicant filed the rejoinder and in the rejoinder mostly the averments made in the original application are reiterated.

5. Heard ld. counsel for the parties and perused the records.

6. The applicant is a adopted son of the ex employee Late Sri Samle. The applicant also made an application for compassionate appointment on 07.01.2009 after the death of the adoptive father of the applicant and died in harness on 30.09.2008. The claim of the applicant was rejected vide order dated 30.09.2010. Ld. counsel appearing on behalf of the applicant placed reliance on the Master Circular No.16 which provides for persons eligible to be appointed on compassionate ground. The relevant portion of the Master Circular is reproduced below:-

“Subject : Appointment on compassionate grounds – Master Circular  
[E(NG)II/90/RC-1/117 dated 12.12.1990]

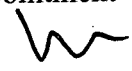
III. Persons eligible to be appointment on compassionate grounds:

**(b) Adopted sons and adopted daughters**

**(i) There is satisfactory proof of adoption valid legality;**

**(ii) The adoption is legally recognized under the personal law governing the Railway servant;”**

7. Ld. counsel for the applicant has also placed reliance on the decision rendered by this Tribunal in O.A.No.151 of 2010 wherein the Tribunal quashed the orders and directed the respondents for considering the case of the applicant for appointment on

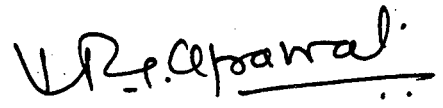


compassionate ground. Said order of the Tribunal was challenged by the respondents through Writ Petition No.791(SB) of 2012 and the said Writ Petition was also dismissed by the Hon'ble High Court on 31.05.2012. Ld. counsel for the applicant also submitted that the present case is similar in nature of O.A.151/2010 decided by this Tribunal on 01.03.2012 which was subsequently affirmed by the Hon'ble High Court in Writ Petition No.791 of 2012.

8. Considering the facts and after perusal of the record I am satisfied that the present original application is also liable to be allowed.

9. Accordingly the O.A.is allowed. The impugned order dated 30.09.2010 is hereby quashed. The respondents are directed to consider the case of the applicant for appointment on compassionate ground as per rules. The said exercise be completed within a period of six months and the decision so taken be communicated to the applicant.

10. With the above observations, the O.A. stands disposed of. No order as to costs.

  
MEMBER(J)

s.b