

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH: PATNA

Registration No.OA-261 of 1996

(Date of order 2/5.1996)

Kumar Rajib Singh & Another Applicants

Versus

The Union of India & Others Respondents

Coram: Hon'ble Mr. N.K.Verma, Member (A)

Counsel for the applicant Mr. Anshay Bahadur Mathur

Counsel for the respondents -

ORDER

Hon'ble Mr. N.K.Verma, Member (A)

In this OA the applicant Shri Kumar Rajib Singh and another have prayed for the following reliefs:-

- (i) The applicant No.1 (Kumar Rajib Singh) be given a suitable employment in the Indian Railways as per Railway Board's Memo dated 7.3.1983 and under the Master Circular on appointment on compassionate ground of Ministry of Railways;
- (ii) The applicant No.1 and 2 be given the balance amount of Rs.48,769.42 out of a total amount of Rs.69,716.00 against the payment of DCRG and post retiral benefit; and
- (iii) The applicant be given 18% interest on the amount of Rs.48,716.42 from 28.5.1991 till the payment of entire amount.

2. The facts of the case are that the applicant's father Shri Chandraketu Narayan Singh, while working as Driver Special Grade in Darbhanga Locoshed of N.E.Railway was

found on medical examination to be unfit for the said post on 25.10.1988 and he was thereafter de-categorised. A standing committee was summoned on 9.1.1989 for finalising an alternative job for him which held several meetings. On 26.5.1989 he was informed that the Railway administration was not in a position to offer any employment or alternative job to the said Shri C.K.N. Singh. Accordingly, the father of the applicant was retired from 5.6.1989 as having been then medically unfit. Subsequently Shri C.K.Singh made an application on 23.6.89 to the DRM for appointment of his son in relaxation of normal rules on compassionate ground which was rejected by the DRM by his letter dated 30.8.1989. A review application filed on 18.10.1989 before the DRM was also rejected vide order dated 4.12.1989. The applicants' arguments are that as per the Railway Board's instruction dated 7.4.1983, and in the para 1.V of the Master Circular on appointment on compassionate ground, compassionate appointment can be offered where an employee becomes decategorised for the post on which he is working ^{or no job} with the same emolument can be offered to him. It is the submissions of the applicant that both application and review application were illegally and arbitrarily rejected by respondent no.6 and 5 without assigning any ground or valid reasons. The applicant's father had also filed an appeal to the General Manager, N.E.Railway on 11.12.1989 which was against rejected without assigning any reason or valid ground vide order dated 18.4.1990.

2. The applicant's father ultimately died on 28.2.1992 and the mother of the applicant i.e. applicant No.2 filed a further representation to the respondent no.3, the Chief Personnel Officer on 15.6.1992 specially bringing to light the poor financial condition of the family. When no steps

were taken by the authorities on requests of applicant no.2, the applicant no.1 himself made a representation to the Hon'ble Minister on 26.10.1992 for his appointment on the Railway service on compassionate ground. In reply to this, the Executive Director (Public Grievances of the Ministry of Railways) vide his letter dated 23.12.1993 to the General Manager, North Eastern Railway, Gorakhpur directed him to appoint the applicant no.1 on a suitable post on compassionate ground in the North Eastern Railway. However, the respondent no.4 i.e. General Manager, North Eastern Railway had done nothing in this regard and hence the OA.

3. The applicants have also simultaneously brought to notice the unauthorised deductions from the DCRG of the late employee, Shri C.K.N.Singh and the wrong calculation thereto.

4. In the course of arguments learned counsel for the applicant was asked to reply as to why this matter was not agitated earlier when the application for appointment was finally rejected by the General Manager, N.E.Railway on 18.4.1990. As regards the wrong calculation and arbitrary deductions from the DCRG, it is seen that the late C.K.N. Singh during his own life time had made a reference in this regard to the DRM on 26.4.1991 for which a reply was given by the Railways on 23.5.1991 intimating that the deductions was made on account of the damages on rent for unauthorised occupation of the Railway quarter. Late C.K.N.Singh did not make any further representation in this regard till he died on 28.2.1992. All these issues have been taken up by the widow, i.e. applicant no.2 and the son, applicant no.1 long after the death of the retired railway employee. The cause of action regarding the compassionate appointment arose in 1991 and the cause of action regarding unauthorised and illegal deductions from the DCRG arose in May, 1991 when a final reply to this effect was given to Shri C.K.N.

Singh by the Railways. There was no explanation by the learned counsel for the applicant about the delays involved in agitating this matter before this Tribunal.

5. Prima facie, the matter is squarely hit by law of limitation. The application is grossly delayed and therefore not maintainable for admission and adjudication at this stage by this Tribunal. Besides, on merits also, there is no case for the applicant no.1 to seek employment on compassionate grounds in relaxation of normal rules. As per the Master Circular appended with this application there are several categories of compassionate ground and the applicant falls in category 4 which have to be given priorities in making appointment on compassionate ground as per paragraphs 10 of the Master Circular appended in the OA. The applicant falls either in category 3 or 4 which relate to dependents of employees who:

- a) die in service or are totally incapacitated while in service irrespective of the period of service left to reach the age of superannuation or of earning retirement benefits in full, or
- b) are medically decategorised with less than 30 years of qualifying service for pensionary benefits 30 years of service for SC to PF; and
- c) dependants of employees who are medically decategorised with 30 years or more of qualifying service for pensionary benefits 30 years of service for SC to PF.

There is no averment on part of the applicant that his father died before having a full qualifying service for retirement. The applicant's father himself had never taken a plea that his sons should be appointed on compassionate ground on that ground that he was not at ^{all} ~~all~~ to get full pension as per the pensionary rules. The applicant's father

and mother had all along brought to notice that they had a large family of 6 to look after. Even on 18.10.1989 when the applicant's father had made a representation to the DRM, his eldest son Kumar Rajib Sing was 21 years old and was unemployed. Compassionate appointment could not be given to a son who could not be considered a dependant of the retired Govt. official when he was retired on medical grounds. The only one ground on which compassionate appointment ~~is~~ given is the indigent condition of the family. Surely, when the applicant's father had retired, the family was not in indigent condition as ~~the~~ retired officer had received his full pensionary benefits and the DCRG subject to the deduction on account of damages on rents. In any case, if the applicant's father was not satisfied with the reply of the respondents in April, 1990, he could have filed an OA immediately thereafter. In this connection it would be worthwhile stating the latest judgment of the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal v. State of Haryana reported in 1984 SCC (L&S) 930 wherein the Hon'ble Supreme Court had held that the "object of compassionate appointment is to enable the pecuniarius family of the deceased employee to tide over the instant financial crisis and not to provide employment." Mere death of an employee does not entitle his family to compassionate appointment. The authority concerned must consider as to whether the family of the deceased employee is unable to meet the financial crisis resulting from the employees' death." The applicant's father died in February, 1992. The applicant is now more than 27 years old. He cannot be even treated as a dependent of the deceased pensioner when he died in February, 1992. The applicant has not given the ~~data~~ ^{details regarding the state} with ~~any non-~~ ^{to} ~~recurring~~ financial distress of the family except his mother's representation to the Railway Minister that the family is in a very poor condition. This bland statement

does not take the case anywhere. It is true that the Railway Minister in 1993 had directed the General Manager, North Eastern Railway to provide a suitable post to the applicant. Remedy for the applicant now lies in pursuing the matter with the said Minister for obtaining compliance of his own instructions. As far the adjudication in this matter is concerned, the matter is hopelessly time barred and therefore the O.A. is dismissed at the admission stage itself. The agitation regarding irregular deductions of the DCRG is equally time barred and also suffers from the technical objections of plural remedies through one single O.A.


(N.K.VERMA)
MEMBER (A)