

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH : PATNA

Date of Order:- 27.1.06

Registration No. OA-57 of 2006

C O R A M

Hon'ble Km Sadhna Srivastava, Member (J)

Kartik Sah, Son of Late Basant, resident of Village Arya Tola,
Sabour, Fatehpur, P.S. Sabour, District Bhagalpur (Bihar)
..Applicant

By Shri Gautam Bose, Advocate

Versus

1. The Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Eastern Railway, Kolkata.
3. The Divisional Railway Manager, Eastern Railway, Howrah
4. The Senior Divisional Personnel Officer, Eastern Railway, Howrah.
5. The Divisional Railway Manager, Eastern Railway, Maldah
6. The Senior Divisional Personnel Officer, Eastern Railway, Maldah

Respondents

By Shri A.A.Khan, Standing Counsel

O R D E R

Hon'ble Km Sadhna Srivastava, Member (J):- The subject matter is compassionate appointment. The applicant's father while posted as Gangman in Maldah Division of Railway died in harness on 13.10.1971. The applicant at that time was just above nine years only having been born on 15.3.1962. It is alleged that the applicant's mother applied for compassionate appointment of the



applicant on 28.4.1981. Thereafter, it is also alleged that several representations were made. However, the Tribunal/Court was not approached. As late as on 25.8.2005 a notification was made by Eastern Railway, Maldah Division to hold a compassionate appointment Adalat with a general offer to the dependents of the deceased railway employees to apply for appointment on compassionate ground. The invitation to apply was in respect of eligible candidates and not for those whose claim was frustrated by lapse of time. The applicant, however, applied duly recommended by Senior Divisional Personnel Officer, Maldah Division, but his claim was rejected vide communication dated 28.10.2005 as contained in Annexure A-1. The instant OA has been filed with a prayer to quash the impugned order dated 28.10.2005 with a direction to concerned authority to consider the claim of applicant for appointment on compassionate ground. Thus, the order dated 28.10.2005 is the cause of action for present application.

2. It may be mentioned at the outset that the Hon'ble Supreme Court, time and again has laid down that the compassionate appointment cannot be granted after lapse of reasonable period. Such an observation has been made by the Apex Court in the cases of Umesh Nagpal Vs. State of Haryana -1994 SCC (L&S) 930, Jagdish Prasad Vrs State of Bihar 1996 (1) SCC 301 , Haryana State Electricity Board Vrs Naresh Kanwar, 1996(8)SCC 23, State of U.P. Vrs. Paras Nath, 1998 SCC (L & S) 570, Union of India Vrs. Bhagwan Singh, 1996 SCC (L&S)33, Punjab National Bank's

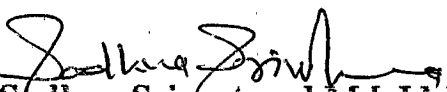
Case 2005 SLJ (1)30 & many other cases. In fact the appointment on compassionate ground loses its relevance after long years of death of employee. The reason is that compassionate appointment is an exceptional mode of recruitment to enable the family of deceased to tide over the sudden financial crisis. In this case the applicant's father died in 1971. The cause of action is being invoked from the order dated 20.10.2005 as contained in Annexure-A-1. It is a peculiar application having been filed after 34 years of death of an employee. The appointment on compassionate ground is not a vested right. It is a wrong notion that it can be claimed at any time. The applicant made an application on 28.4.81 as alleged and therefore it should have been pursued at that time. The subsequent representation cannot provide continuity of cause of action, more particularly in the case of compassionate appointment.

3. In my opinion, the attempt by the applicant to approach Lok Adalat for compassionate appointment in the year 2005 was a futile attempt. The law on compassionate appointment is well laid. No Lok Adalat /Court/ Tribunal can consider a case for compassionate appointment after 34 years of death of an employee. Looking to the object of the compassionate appointment, it can be easily inferred that the applicant's condition was not indigent enough to drive him to make serious attempt for his employment. In any case, if a person has survived for such a long time without any assistance from the department, it is logical to infer that he does not need the help from the department.

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4. The reference to the Master Circular in para 4.10 of the application is not relevant in this case at all. There was never an occasion to refer the matter to the General Manager. It is also doubtful if the application dated 28.4.1981 was delivered to DRM, Eastern Railway, Howrah. At least there is no proof on record to that effect. The reference to the G.M. could be made by the authority competent to make the appointment or by the applicant himself. Since no proof is available on record as to whether the application for compassionate appointment reached the office of the competent authority at any time or the competent authority found the applicant in indigent condition, therefore, the question of reference to G.M did not arise.

5. In my opinion , this application is totally misconceived. The application by the applicant to Lok Adalat in 2005 , in the facts and circumstances of the case, was not maintainable. No application for appointment on compassionate ground , after 34 years of death of an employee ,should have been entertained. Its rejection is wholly justified. The applicant does not get a cause of action from the rejection order dated 28.10.2005. The instant application is, therefore, rejected at the stage of admission itself.


[Sadhna Srivastava] M [J]

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