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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY
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Original Application No.704/88

Ashok Raghunath Kulkarni,
Bhusaval.

... Applicant

V/s

1. Union of India through the
General Manager,
Central Railway,
Bombay.
2. The Divisional Railway Manager,
Central Railway,
Bhusaval.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava.
Hon'ble Member (A), Shri P.S.Chaudhuri.

Appearances:

Shri S.B.Kasar, Advocate,
for the applicant and Shri
S.D.Patil, Senior Clerk in
the office of the Second
Respondent.

ORAL JUDGEMENT:

Dated : 27 February 1991

[Per. P.S.Chaudhuri, Member (A)]

This application under Section 19 of the Central Administrative Tribunals Act, 1985 was filed on 26.9.88. In it the applicant, whose father died while he was in service as a Mail Guard on Central Railway, is challenging the failure of the respondents to give him compassionate appointment.

2. The applicant's case follows:- The father of the applicant, Shri Raghunath Dattatraya Kulkarni was working as a Mail Guard on Central Railway at Bhusaval. He died while in service on 27.2.1973 before attaining the age of superannuation. After the demise of her husband, the widow, Smt. Prabhawati Raghunath Kulkarni met the Assistant Personnel Officer, Bhusaval in 1973 and requested him for the

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appointment of her son Ashok Raghunath Kulkarni, the applicant. At that time the applicant was only 12 years of age. Smt. Kulkarni, therefore, requested the Asstt. Personnel Officer that her son Ashok be appointed in railway service on his attaining the age of 18 years. The Asst. Personnel Officer advised her through a letter on 28.11.74 that she should wait till her son attains the age of 18 years. Thereafter, she put in her application to the Divisional Railway Manager (P), Bhusaval on 13.3.79, i.e. on her son attaining the age of 18 years, for appointment. The Divisional Railway Manager (P), Bhusaval, vide his letter dated 20.10.87, informed the mother of the applicant that the matter of appointment of her third son has been put up before the competent authority and she would be informed accordingly. Thereafter, vide letter dated 7.7.88, the Divisional Railway Manager (P) informed the mother of the applicant that the Divisional Railway Manager, Bhusaval had considered all her appeals sympathetically but according to the extant rules, her son cannot be appointed and in this connection she was already so informed vide his letter dated 5.1.88. Being aggrieved, the applicant filed the present application.

3. The respondents have opposed the application by filing their written statement. We have heard Mr. S.B.Kasar, learned counsel for the applicant. Mr. S.D.Patil, Senior Clerk in the office of the second respondent is present. It is not disputed that appointment on compassionate grounds is covered by the Railway Board's instructions dated 30.4.1979.

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This provides that appointment on compassionate grounds can also be made in the case of staff who die in hardness but in such cases it should be restricted to a son/daughter/widow of the employee. Where the widow cannot take up employment, and the sons/daughters are minor, the case may be kept pending till the first son/daughter becomes a major i.e. attain the age of 18 years. Such cases should be kept pending only for five years after which the claim will lapse. It was only on 16.10.1983 that the widow informed the respondents that due to her ill health she could not accept the railway service. It is also nobody's case that the applicant is the late employee's eldest son: The fact is that he is the late employee's third son and the two elder sons are already in the employment of the Railways. Of course such employment is not a bar to compassionate appointment in terms of the Railway Board instructions dated 30.4.1979. Mr. Kasar strenuously urged before us that these two elder sons were not residing with their mother and were not contributing to her up-keep.

4. As we have mentioned earlier the instructions dated 30.4.79 provide for employment within a period of five years. These instructions have been subsequently amended and provide for extension of this period with the approval of the General Manager in deserving cases. What we are required to decide, therefore, is whether this is a deserving case coming within the ambit of compassionate appointment. We have pondered over this issue but are unable to conclude that this is a deserving case. To begin

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with, the concept of compassionate appointment is to help the family meet the immediate situation arising from the untimely death of the bread earner. We are unable to persuade ourselves that the family is in need of this compassionate support even though the two elder sons are working and that too on the Railway itself. We are quite clear in our mind that the concept of compassionate appointment is not to be used as a back door for regular appointment.

5. In this view of the matter we see no merit in the application.

6. The application is accordingly dismissed. In the circumstances of the case there will be no order as to costs.