

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 410 of 2005 with MA 218 of 06

Date of order : 07.07.2006

C O R A M
Hon'ble Shri Justice P.K. Sinha, V.C.

Arup Kumar Jha, S/o Late Ugra Narain Jha, resident of quarter No. 812 /C, Lanka Colony, E.C. Railway, Danapur, P.O. Khagaul, Patna.

....Applicant

By Advocate : Shri M.P. Dixit

Vs.

1. The Union of India through G.M., E.C. Railway, Hazipur.
2. Divisional Railway Manager, E.C. Railway, Danapur.
3. Sr. D.P.O., E.C. Railway, Danapur.
4. Sr. D.S.T.E., E.C. Railway, Danapur.

....Respondents

By Advocate : Shri S.K. Singh

O R D E R (Oral)

By Justice P.K. Sinha , V.C.:-

The applicant is one of the sons of Late Ugra Narain Jha who died in harness on 17.10.1995 and has come up before this Tribunal for quashing of the order of the respondents dated 03.01.2005 at Annexure A/9, which is a speaking order of the concerned authority dated 02.01.2005,



recorded in compliance of the direction of this Tribunal issued through the order in OA 604 of 2004 (Annexure A/8), by which the applicant earlier had also come up for his appointment in the government service on compassionate ground. By that order the matter was remitted back to the authorities to examine the case of the applicant and to dispose of the matter by a reasoned order.

2. Through Annexure A/9, the D.R.M., E.C. Railway, Danapur gave reasons for rejecting the prayer of the applicant on the following grounds:-

(i) that on the death of U.N. Jha, his three sons including the applicant had jointly applied for appointment of the applicant on compassionate ground. The terminal dues were also released in favour of the applicant, as per the joint request of all the three sons, but after release of the settlement dues, objections had been raised by other brothers that the same had not been distributed amongst them by the applicant.

(ii) The authorities got the matter inquired into by the Welfare Inspector who reported that all the three brothers were engaged in private jobs, but on

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the point of appointment on compassionate ground, they were not unanimous, which was evident from ^{the} representation filed in the office.

(iii) The matter of compassionate appointment was examined against the aforesaid back drop, and it was also noticed that the wife of the deceased employee was not alive , and all the three sons were above 30 years of age, engaged in private services.

(iv) Compassionate appointment is extended to provide immediate relief to the bereaved family. Since all the three sons were earning their bread, it did not appear that they were so indigent as to be granted relief of appointment on compassionate ground.

3. In the written statement the same grounds have been given. Annexure R/1 was also attached with the written statement, which was the decision communicated to the applicant through letter dated 16.11.1999 as to why the application for such appointment was rejected, in which it was reported that there were disputes among the brothers, relating to the appointment , and all were in private services. Another ground was stated that the brothers had passed only



7th Class whereas, as per rules, the minimum qualification was 8th class.

4. In reply to the written statement, it has been stated that rejection letter at Annexure R/1 appears to have been sent at the wrong address, and it is also submitted that from the documents of the applicant itself, which was filed in reply to the application in MA 218 of 2006, it would appear that the applicant was qualified and had passed Class 8.

5. It may be mentioned that the aforesaid MA was filed by the applicant for amending the relief portion of the application by adding a further relief to quash Annexure R/1. Reply is also on record of the MA in which it has been claimed that the letter at Annexure R/1 was sent at the address given by the applicant himself in his own handwriting, a copy of which was attached. At the back of that annexure, the transfer certificate of the applicant was also attached from which it will appear that at the time of transfer, he was reading at Class 8 but from Col. 9 it will appear that he had not passed Class 8.

A handwritten signature in black ink, appearing to read "S. J. D." or a similar name.

6. The learned counsel for the applicant argued that when their father died , all the three brothers had given in writing that they had no objection if this applicant was appointed on compassionate ground, hence now they cannot resile from the consent so given. However, this contention is not convincing as it has been claimed by the brothers before the authorities that the terminal benefits received by the applicant were not distributed amongst the brothers.

7. The learned counsel for the applicant also had challenged the enquiry report in which it was stated as to how the applicant had disagreement amongst themselves for appointment of the applicant as well that they were employed in private services. This Tribunal had directed for production of the enquiry report which has been produced. At page 16 of that file is the enquiry report which states as to how the three brothers were employed in private jobs. At page 15 is a petition filed by Shri A.N. Jha, one of the sons of the deceased employee, who in writing had admitted that all the three brothers were privately employed and had submitted



that the terminals benefits were received by the applicant who kept the entire amount with him, hence he was objecting to the appointment of the applicant on compassionate ground.

8. From the materials on record it appears that the applicant had received the terminal benefits but now his brother claims that he had usurped the entire amount himself. The compassionate appointment is provided to grant immediate relief to the family of the deceased employee whose family members may not have source of livelihood. One of them is provided such appointment with the understanding that he would also take care of other members of the family. In this case the wife of the deceased employee is also dead and all the three brothers were working in private jobs, and from the materials on record it appears unlikely that even if the employment had been granted to the applicant, he would have looked after ~~in~~ other members of the family, who , however, had hardly needed such help.

9. It has not been specifically claimed that the applicant had passed Class 8 which, according to the

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respondents, was the minimum qualification for appointment to a Group 'D' post. The School Leaving Certificate attached with the reply to the MA 218 of 2006 supports that the applicant had not passed Class VIII.

10. More-over, now 11 years have elapsed since the death of the father of the applicant. Such belated appointment, if given, would be against the principles governing appointments on compassionate ground.

11. This application, I find, is not fit to be allowed. This application, accordingly, is dismissed.

12. In view of the aforesaid findings, there is no need to record a separate order in MA 218 of 2006, which also stands disposed of.

The record relating to the enquiry which has been handed over to the Tribunal by the learned counsel for the respondents, may be returned, after keeping the photo copies of page 15 (both sides) and of page 16 of that record.



[P.K. Sinha] V.C.

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