

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No:1003/96.

Date of Decision: 9/7/98.

Sayyed Masjeed

Applicant.

Shri G.S.Walia

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri V.S.Masurkar

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri.

- (1) To be referred to the Reporter or not? *W*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *W*

abp.


(R. G. VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, PRESCOT RD, 4TH FLR, FORT,
MUMBAI - 400 001,

ORIGINAL APPLICATION NO:1003/96.

DATED THE 9TH DAY OF JULY, 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Sayyed Masjeed, S/o. Late Baboo Ismail,
Ex Employee of
Western Railway,
Churchgate,
Mumbai - 400 020.

... Applicant.

By Advocate Shri G.S.Walia.

V/s.

1. Union of India, through
General Manager,
Western Railway,
Head Quarters' Office,
Churchgate,
Mumbai - 400 020.

2. Divisional Railway Manager,
Bombay Division,
Bombay Central,
Mumbai - 400 008.

... Respondents.

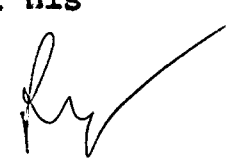
By Advocate Shri V.S.Masurkar.

I O R D E R

[Per Shri R.G.Vaidyanatha,V.C.]

1. This is an application filed under Section-19 of Administrative Tribunals Act. Respondents have filed reply. I have heard the Learned Counsel appearing on both the sides.

The applicant, son of one Baboo Ismail, who was working in the Railways. The applicant's father died on 26/4/83. The applicant was minor at that time aged 13years. After applicant attained majority, his Mother made a representation/ on 15/6/93 to the respondents for compassionate appointment on behalf of the applicant. The respondents rejected the said application by letter dated 20/10/95 and against the said order the applicant has approached this Tribunal seeking direction to the respondents to appoint the applicant on compassionate grounds. It is already well settled that compassionate appointment is required to rehabilitate the family of the deceased immediately after his death.

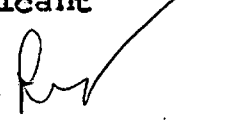


death. The applicant's family was affected by the demise of applicant's father in the year 1983.

2. In the reply, the respondents have taken a stand that the application for compassionate appointment was barred by time since the applicant was aged about 23 years when the application was given. It is however stated that the applicant's eldest brother is already working in the Railways and it is stated that having taken into consideration the actual position including the employment of applicant's eldest brother in the Railways, the administration found that it is not a fit case for compassionate appointment., and hence the applicant is not entitled to any reliefs.

3. The learned counsel for applicant has questioned the correctness and legality of the order passed by respondents. He maintained that the applicant is in indigent circumstances and his case is fit for appointment on compassionate grounds. On the other hand, the learned counsel for respondents contended that the application was given long after the required time after the applicant attained majority and further applicant's family is not in indigent circumstances since his eldest brother is working in Railways and this fact was suppressed by applicant's mother when she submitted the application.

4. Now it is fairly well settled by decisions of Supreme Court that compassionate appointment is not a matter of legal right or statutory right. It is a concession given by Government to rehabilitate the family whose breadwinner dies in harness. The very object is that when a breadwinner dies and the family is in difficulty, someone in the family should be given a job so that the family can sustain. This scheme of compassionate appointment was introduced by Government of India to meet such a requirement. In the facts and circumstances of the case, this Tribunal has to decide whether it is a fit case in which This Tribunal should interfere and give a direction to the respondents to appoint the applicant on compassionate grounds.



5. In this case, it is seen that when the father died on 26/4/83, admittedly, the applicant was a minor, his date of birth is 21/3/70. He attained majority in 1988. Application for compassionate appointment was given for the first time in June, 1993 and again in 1995. It cannot be said that the family was in distress from 1983 for a period of 10 years. We are not inclined to grant time of 15 or 20 years for compassionate appointment, but it is in accordance with the rules if the applicant submits the application for compassionate appointment within the prescribed time limit. The question is whether in the facts and circumstances of the case, this Tribunal should interfere in directing the respondents to give compassionate appointment to the applicant. Even, according to rules, application of a minor will have to be given within two years of attaining majority. But even then there is a delay of three years in making the application after expiry of two years after the applicant attained majority.

6. In this application, the question is whether the applicant can be given employment if another brother is working in Railways since 1990. No pleading that Family is not getting any benefit from the eldest son, instead she asserted that there is no earning member in the family. The respondent's administration has rejected the application of the applicant on two grounds namely:-

- i) that the applicant's elder brother is already working in the Railways.
- ii) that the application was filed long after two years after attaining majority.

though no reasons were given in the Impugned order, the reasons have now been given.

7. This Tribunal is not sitting in appeal over the orders passed by the Railway Administration, judicial review is only to find out whether the respondents have committed any illegality or irregularity in passing the orders. This Tribunal cannot take a different view. As already stated there

is no legal or statutory right for a person to get compassionate appointment.

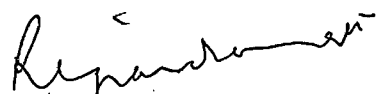
In a recent decision of the Supreme Court reported in 1997(2)SC SLJ 485 (Haryana State Electricity Board and Ors v/s. Hakim Singh), the Supreme Court has observed that the object of compassionate appointment is to tide over the crisis of untimely demise of sole earning member of the family. It is further pointed out that it is not a vested right, which can be claimed at any time. In that case the High Court had allowed the writ petition and Supreme Court allowed the appeal and set aside the order of High Court. Similarly, in a case reported at 1996(1)SC SLJ 93 (Jagdish Prasad v/s. State of Bihar) where a minor had filed a writ petition seeking compassionate appointment after attaining majority. There also the Supreme Court explained the object of compassionate appointment namely to relieve the unexpected immediate hardship and distress caused due to sudden demise of earning member of the family and hence claim rejected on the ground of delay.

Though the above decisions may not be directly applicable to the case of the Railways, the Principles laid down for nature of appointments squarely applies in this case also.

After considering the facts and circumstances of the case, I feel this is not a fit case where interference from Tribunal is called for in a matter like compassionate appointment.

8. In the result, OA is dismissed. In the circumstances, there is no orders as to costs.

abp.


(R. G. VAIDYANATHA)
VICE CHAIRMAN