

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 421/91

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DATE OF DECISION 8.11.1993.

Smt. S.K. Dhiwar & Another Applicant(s)

Versus

G.M., V. Railway., Bombay Respondent(s)

1. Whether it be referred to the Reporter or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

N.K.Verma
(N.K. VERMA)
MEMBER

(M.S. DESHPANDE)
VICE CHAIRMAN

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, CAMP AT NAGPUR.

(9)

O.A.421/91.

Smt. S.K. Dhiwar & Another.

.. Applicants.

V/s.

G.M., C.Rly., Bombay

.. Respondent.

Coram : Hon'ble Shri N.K. Verma, Member (Admn.)

Appearances:

1. Shri B.R., Wakode, Counsel for the applicant.
2. Mrs. Indira Bodade, Counsel for the Respondents.

ORAL JUDGMENT :

Dated : 8.11.1993.

§ Per : Hon'ble Shri N.K. Verma, Member (A) §

The applicant a widow of Railway employee Keshav Ganu Dhiwar has prayed for payment of the backwages for the period 11.12.1971 till today as a compensation for not having given her a employment on compassionate grounds after death of her husband and to direct the respondents to make the appointment on compassionate ground of her son based on his educational qualification. Shri Wakode, learned Counsel for the applicant submitted during the arguments that the widow of the deceased railway had made several requests to the Railway respondents to appoint her in any job on compassionate ground in relaxation of recruitment rules. She was given a job as a Water Woman in the Railway during the period from March, 1989 to June, 1989, but thereafter no other job was offered to her. A screening test was held in the year 1979 and wherein she was found unsuitable for any job by the Screening Committee. She made an application in the year 1989 to the Railway respondents to consider the appointment of her son to which again she was replied on 11.4.1990 that since "you were found unsuitable for Class IV

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post, your name was struck off from the list of widows awaiting appointment on compassionate ground and in view of this facts the request for appointment on compassionate ground of your son Jagannath K. Dhiwar cannot be considered". To this reply the applicant made further representation which has not been replied so far. Shri Wakode cited a number of decisions in the matter including one given by the Hon'ble Supreme Court in the case of Smt. Phoolwati Vs. Union of India in AIR 1991 Supreme Court 469 wherein the Court has cited another judgment of the Hon'ble Supreme Court in the case of Sushma Gosain V. Union of India, AIR 1989 SC 1976.

"It can be stated unequivocally that in all claims for appointment on compassionate ground, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant".

Learned Counsel for the applicant also cited certain other cases wherein this order of the Supreme Court has been followed, especially the Judgment of the Jaipur Bench of this Tribunal in the year 1992.

2. On behalf of the Respondents Smt. Indira Bodade stated that no request for appointment of applicant was made prior to 1978 when she found unsuitable for a post in the Class IV on the screening test. Another screening test held in October, 1979 also found her unsuitable. Thereafter she made only one representation in the year 1989 after a lapse of 10 years of her own application. She also submitted that since the Railways respondents held her unsuitable, the question of another member of the family being considered for compassionate appointment did not arise. She also said that the respondents had the impression that the applicant's

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son was not her first son but the second son and the railways were right in rejecting the claim of second son when the claim of the first son for appointment on compassionate ground was not pressed. Her son had because a major in 1984 and had not applied for a post. Thereafter there has no compelling grounds for the applicant's son to obtain a suitable job in the Railways in relaxation of the normal rules of the recruitment.

3. Having heard both the sides, I have the irresistible impression that there was a failure on the part of the Railways respondents in providing a suitable job to the widow of deceased railway employee who died while in service. Providing jobs to the widows or family members of deceased officials family is one of the very important social and welfare activity taken upon by the Government. Normally it should not have been difficult for the railway to provide her suitable job according to her level of education and age. It is not understood on what ground the screening committee found the applicant unsuitable for a Class IV job which can be both unskilled/non-test category and skilled. Yardsticks of suitability were not indicated while the screening test was carried out. In any case, the [redacted] compassionate appointment has to be made in total relaxation of the recruitment rules and the decision for not appointing her on ground of unsuitability can not therefore be sustained. When in the year 1989, she requested for her son's appointment, it was again rejected on very same ground that she was found unsuitable and her son's candidature cannot be considered in view thereof. Her son was educationally qualified having SSC Certificate and was of 22 years of age when the application was made. He was therefore qualified for any job in Gr.C or Gr.D and vide Railway Board's letter dtd. 7.8.1991 the General Manager of the Railway was empowered to consider such cases on compassionate grounds

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upto 10 years of death of deceased employees, if the applicant happened to be the first child/ward. In respect of the dependents of employees who died, General Manager could consider appointment of first ward even beyond 10 years from the death, still they attain majority. Admittedly the son of the applicant is the first child as there was no evidence adduced by the Railway respondents that applicant's son was the second child. Even though he had not applied a job soon after 1984 when he became a major, the case could have all the same been considered at the level of the General Manager. The question of candidature of the son being rejected due to the unsuitability of the mother did not arise.

4. In the circumstances, the prayer for appointment of applicant's son in the Railway in relaxation of rules on compassionate ground succeeds. The Railway Respondents are directed to consider the candidature of the son Jagannath K. Dhiwar who qualified for appointment in a Group 'C' or Group 'D' post according to his educational qualification. Action in this regard shall be taken within 3 months from the date of the receipt of the order. No order as to costs.

N.K.V.
(N.K. VERMA)
MEMBER (A).

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