

(1)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 938/92

Transfer Application No. ---

Date of decision 12-7-1993

1. Shri Vilas Kashinath Mistry

2. Smt. Kamlabai Kashinath Mistry Petitioner

Mr. D. V. Gangal

Advocate for the Petitioner

versus

U.O.I. & Ors.

Respondent

Mr. Subodh Joshi

Advocate for the Respondent(s)

Coram :

The Hon'ble Shri M.S.Deshpande, Vice-Chairman

The Hon'ble Shri M.Y.Priolkar, Member(A)

1. ~~Whether the Reporters of local papers may be allowed to see the Judgement ?~~

2. To be referred to the Reporter or not ?

3. ~~whether their Lordships wish to see the fair copy of the Judgement ?~~

4. Whether it needs to be circulated to other Benches of ^M the Tribunal ?

M

M.S.D
(M.S.DESHPANDE)
VC

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.938/92

1. Shri Vilas Kashinath Mistry
2. Smt. Kamlabai Kashinath Mistry

Samatha Nagar,
Behind Railway Quarters,
(Near Tapi River)
Bhusaval,
Maharashtra.

.. Applicants

-versus-

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

Coram: Hon'ble Shri Justice M.S.Deshpande
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.D.V.Gangal
Advocate for the
Applicant.
2. Mr.Subodh Joshi
Advocate for the
Respondents.

ORAL JUDGMENT: Date: 12-7-1 993
(Per M.S.Deshpande, Vice-Chairman)

Heard Mr.D.V.Gangal for the applicant
and Mr.Subodh Joshi for the respondents.

2. By this application the applicant
who is the son of the deceased Class IV railway
employee Kashinath Kalloo seeks appointment on
compassionate grounds. Kashinath Kalloo died on
30th August, 1990 before his due date of retire-
ment which would have been 30-11-90. The applicant
made a request for appointment on compassionate
ground but that was rejected on 20-11-90. Another
request which was made also met the same fate
by the reply dt. 16th October, 1991. The applicant
therefore filed this application.

(P)

3. According to the respondents the applicant was not entitled to compassionate employment because Kashinath Kaloo died before three months prior to his retirement and ^{his} two sons were in railway service and since the family is well provided for this is not a fit case where the concept of compassionate employment can be applied.

4. We were referred to the rules which ^{are} contained in the Master Circular on Appointment on Compassionate Grounds. But there is nothing in it which says that if the employee dies soon before his due date of retirement or ~~as~~ ^{if} other persons from the family who are railway employees he would not be entitled to compassionate appointment. The same is the position with regard to the terminal benefits which came to be paid upon the death or retirement.

5. Mr. Subodh Joshi, learned counsel for the respondents referred us to observation of the judgment of this Tribunal in O.A.704/88 decided on 27-2-1991. There the Bench observed that the question to be decided was whether that was a deserving case coming within the ambit of compassionate appointment and having pondered over this issue the Bench came to the conclusion that this was a deserving case because the concept of compassionate appointment is to help the family meet the immediate situation arising from the untimely death of the bread earner, and that family was not in need of compassionate

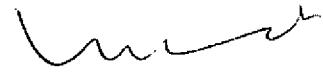
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~~Since~~
support even though the two elder sons were working in the Railways. There is no reference in the judgment to any rules bearing on the subject and about the manner in which rules should ^{be} construed and the case cannot be regarded as precedent for proposition for compassionate employment where other members of the family are railway employees. In our view the crucial question is whether the person who asked for compassionate appointment ^{though he} is a dependent of the employee who died in harness, incapacitated from claiming the benefit. There is nothing in the reply filed to show that the applicant was not dependent of the deceased employee.

6. We find that the applicant was therefore entitled for appointment on compassionate grounds and we therefore allow the application and direct the respondents to grant compassionate appointment to the applicant within two months from today.

7. No order as to costs.


(M.Y.PRIOLKAR)
Member(A)


(M.S.DESHPANDE)
Vice-Chairman

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