

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 913/94

Transfer Application No.

Date of Decision 17/10/95

Vijaykumar P Singathkar

Petitioner/s

Shri D.V.Gangal

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri Ravi Shetty for
Shri R.K.Shetty.

Advocate for
the Respondents

CORAM :

Hon'ble Shri.M.R.Kolhatkar, Member (A)

Hon'ble Shri.

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

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

(Signed)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.913/94.

Vijaykumar P Singathkar

... Applicant

V/s.

Union of India, through

1. The General Manager,
Central Railway, V.T.,
Bombay - 400 001.

2. The Divisional Railway Manager,
Central Railway,
Bhusawal.

... Respondents.

CORAM: Hon'ble Shri M.R. Kolhatkar, Member (A).

APPEARANCE

Shri D.V. Gangal, Counsel
for Applicant.

Shri Ravi Shetty for
Shri R.K. Shetty, Counsel
for Respondents.

ORAL JUDGEMENT:

DATED : 17/10/95.

(Per Shri M.R. Kolhatkar, Member (A))

This OA is in respect of an application for compassionate appointment from the son of a Medically decategorised Railway employee who retired on 1/8/89 when 2 years 7 months of his regular service had still remained. Application was first made on 18/10/89 and then on 27/3/90 for compassionate appointment in terms of Railway Board instructions applicable to such appointments. The application was first rejected ~~wide~~ written statement para-6 on 9/2/90 though this communication dated 9/2/90 is not on record. We saw the original file and it says that 'the application dated 18/10/89 was sympathetically considered by the Competent Officer. As per current rules it is not permissible to grant appointment to your son which is regretted.' It is stated in the written statement that his appeal against the decision was also regretted by the Competent Authority. It

is stated that the earlier communication was issued on the basis of order of Senior Personnel Officer, Divisional Railway Office, Bhusawal and the subsequent order dated 10/4/90 which is to be seen at Exhibit-R, with the reply of respondents to the Miscellaneous petition for Condonation of delay, was issued under the orders of Divisional Railway Manager. According to the Annexure-R, to the Sur-Rejoinder by Respondents dated 12/3/95, the General Manager has delegated powers to make compassionate appointment to Group 'D' posts to the Divisional Railway Manager with effect from 11/12/73 and it is in terms of this delegation that the application for compassionate appointment was rejected. The applicant has enclosed Annexure-7 dated 27/6/90 which shows that he had made representation to the General Manager against rejection of his application. It is not clear what happened to this representation. It appears that there was correspondence between the Divisional Railway Manager's office and the General Manager's office. In the annexure dated 25/9/91 to the Rejoinder of Applicant, filed on 25/1/95, there is a letter from the Head Office asking for certain information in respect of the case from the Divisional Railway Manager. According to Annexure-2 to the Sur-Rejoinder dated 12/10/95 from the respondents, reply was sent to the communication from Head Office on 18/11/91 from which it is gathered that the requisite information was sent by Divisional Railway Manager's office and it is also stated that the proposal sent to Head Office is not recommended.

2. It, therefore, appears from the above review of the correspondence that although the respondents have taken the stand that the appeal of

the applicant against the earlier rejection letter was also rejected by competent authority, the same stand is not correct. The competent appellate authority which in this case is General Manager had never considered the matter and passed the order.

3. The Learned Counsel for Respondents argued that there is no prescribed appeal in the rules and therefore it is not incumbent on the General Manager to send a reply to the representation. The Learned Counsel for Applicant has argued that in terms of Rule-I(v) it is obligatory to obtain General Manager's orders. As we see the rules, we are unable to read any such obligation to obtain approval of General Manager in case the representation is rejected at Divisional Railway Manager's level itself.

4. All the same we note that the main reason for rejection of representation by the Divisional Railway Manager, as contained in page-4 of the reply is that the ex-employee was having a very small family consisting of Mrs. and two major sons, one of whom was already serving at Ordnance Factory, Varangaon. Hence the case was not considered as a fit case for recommendation.

5. Although the rules in terms may not provide for an appeal against the order of rejection, we can certainly read into the rules such a right of an employee to make representation against an order by which he is aggrieved to the Officer superior to the Officer who had originally passed the order. This is also the scheme of the rules as well as implicit in the scheme of delegation. The correspondence that passed between the Divisional Railway Manager and Head Office which is eloquent in this regard.

The respondents themselves have taken the stand that in appeal, the case of the applicant was rejected. Considering all these aspects together, we are inclined to allow the OA on the short ground of failure of Head Office to dispose of the representation and dispose of the OA by giving certain directions.

ORDER

OA is partly allowed. The applicant is given liberty to make a detailed representation to the General Manager of Central Railways against the order dated 10/4/90 passed by Divisional Railway Manager rejecting his application for compassionate appointment within 4 weeks of the communication of this order. On receipt of representation, the General Manager is directed to consider the same taking into account the contents of the application as well as the applicable rules and pass a speaking order within 2 months from the date of receipt of representation. There will be no orders as to costs.

M.R.Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A)

abp.