

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.239/99.

Dt.of Decision : 21-04-99.

N.John

.. Applicant.

Vs

1. The General Manager,
SC Rly, Rail Nilayam,
Sec'bad-371.
2. The Divl.Rly.Manager,
SC Rly, Divisional Office,
Vijayawada-1.Krishna Dist.

.. Respondents.

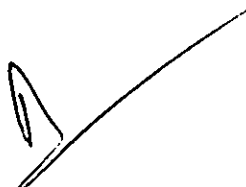
Counsel for the applicant : Mr.S.Ramakrishna Rao

Counsel for the respondents : Mr.K.Siva Reddy, SC for Rlys.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

..2/-



ORDER

Heard Mr. S. Ramakrishna, Rao, learned counsel for the applicant and Mr. K. Siva Reddy, learned counsel for the respondents.

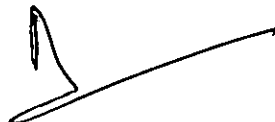
2. The applicant in this OA while working as a Passenger Driver was medically decategorised on 2-5-96. Thereafter he was given an alternative appointment in a Group-D post. As the applicant did not like to work in a Group-D post as the scale of pay of Group-D post is much lower than the scale of pay of Passenger Driver and he was losing heavily due to the running allowance ^{in the alternative job} the applicant submitted his voluntary retirement. Thereafter he submitted a representation for compassionate ground appointment. But that representation is not enclosed to the OA. I consider this application is incomplete because of the non enclosure of the representation which needs to be seen. However, his representation dated 17-06-96 was rejected by the impugned letter No. B/P.Com/563/104/96 dated 30-01-97 (Annexure-IV) rejecting the claim of the applicant for compassionate ground appointment to his son John Peter.

3. This OA is filed to set aside the impugned order No. B/P.Com/563/104/96 dated 30-01-97 (Annexure-IV) of R-2 and for a consequential direction to the respondents to consider the case of the applicant's son for compassionate ground appointment in view of the indigent circumstances under which the applicant is reeling, consequent to his medical decategorisation/retirement.

4. No reply has been filed in this OA. However, the learned counsel for the respondents submitted as follows:-

The applicant ^{has} submitted his voluntary resignation

..2/-



57

-3-

and hence the applicant is not entitled for compassionate ground appointment to his wards. The applicant though was given an alternative appointment he refused to take it. The applicant is also not entitled for compassionate ground appointment to his son^{as} he was medically decategorised and discharged from service and on that account he is not eligible for compassionate ground appointment.

5. The learned counsel for the applicant brought to my notice the letter addressed to a M.P., dated 6-10-97 wherein it is said that the case of the applicant was not considered as he is not fulfilled the means test. The applicant further submits that in case he is not eligible for compassionate ground appointment due to his voluntary retirement the question of rejecting his case on means test does not arise. Hence, the applicant submits that ^{the rejection of} his case was ~~rejected~~ on account of his voluntary retirement is not a proper pleading to reject his case.

6. The applicant was medically decategorised and he was offered a job which is very much below his rank held by him as Passenger Driver while he was in service. Normally a ^{similar} medically decategorised employee is given an equivalent job. If such an equivalent job is not available then he can be given an another job lower than the job held by him at the time of medically decategorisation and his pay has to be protected in the alternative job. The applicant as stated earlier was given a very much lower job and even protection of the pay in the lower job is not possible as the maximum ^{pay} of the Group-D post is much lower than the ~~max~~ minimum of the scale of pay of Passenger Driver. When the General Manager himself submits that his case was rejected ^{on the basis of} means test the question of now stating

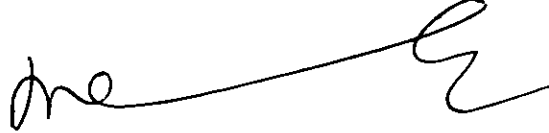
..4/-

that the case was rejected ^{due to} his voluntary retirement from service is not a proper argument in my opinion. The applicant was medically decategorised and as he was not given a job commensurate to the job held by him at the time of medically decategorisation he submitted his voluntary resignation and thereafter requested for compassionate ground appointment to his son. I feel under the circumstances, the request of the applicant is valid. But whether that request is to be accepted or not is to be decided by the competent authority. As his case was not considered in a proper ^{perspective} prospective for the reasons stated, I am of the opinion that this case needs review ^{or} on the General Manager's level expeditiously.

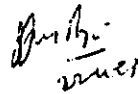
7. Hence, the following direction is given:-

The case of the applicant for compassionate ground appointment to his son should be considered by R-1 and decide this case in accordance with law within a period of three months from the date of receipt of a copy of this judgement. A speaking order after scrutiny by the General Manager should be issued to the applicant in regard to his request for compassionate ground appointment within that 3 months period.

8. The OA is ordered accordingly. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 21st April, 1999.
(Dictated in the Open Court)


J. J. J.