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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
OA 371/97 Date of order: 13.01.99

Dinesh Chander Rawat S/o Shri Puran Singh Rawat by caste Rawat, resident of Bada Nawab Ka, Bazaria Road, Dholpur (Raj.)

.. Applicant

Versus

1. Union of India through the Secretary for Railways, Government of India, Rail Bhawan, New Delhi.
2. Chairman, Railway Board, Rail Bhawan, Rafi Marg, New Delhi.
3. Chief Personnel Officer (Stores) Churchgate, Mumbai.
4. CST Dy. Controller of Store, Central Railway, Jhansi (UP)

.. Respondents

Mr. Dinesh Yadav, counsel for the applicant

Mr. S.S. Hasan, counsel for the respondents

CORAM:

Hon'ble Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant herein Shri Dinesh Chander Rawat has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to quash the impugned order dated 3.7.1997 (Ann.A1) whereby his request for appointment on compassionate ground has been rejected with a further direction to the respondents to give him appointment on a Group-D post.

2. Facts which are not largely in dispute between the parties in brief are that the applicant's father Shri Puran Singh died while in service with the respondent Railways on 1.11.1995. The mother of the applicant moved an application to get appointment for the applicant on compassionate ground in place of his deceased husband. The matter was

under consideration before the respondent Department which asked for certain documents regarding the applicant's elder brother (Shri Ramesh Chander) vide Ann. A5 dated 20.7.1996. The applicant submitted all the relevant information but the respondents vide order dated 18.10.1996 (Ann.A7) informed that the applicant has not been considered for appointment on compassionate ground. The applicant's mother sent another application to the respondents which has also been rejected by the respondents vide the impugned order dated 3.7.1997 (Ann.A1). The applicant is claiming appointment on compassionate ground being a sole bread earner for the deceased employee's family and asserting that his elder brother is living separately and does not give any financial assistance to him and his mother.

3. The respondents have opposed this application by filing a written reply to which the applicant has also filed a rejoinder. The respondents have opposed this application on the ground of jurisdiction of the Tribunal as ~~and also the~~ limitation and on merits. The stand of the respondents mainly has been that since one of the son of the deceased employee is gainfully employed, the family is ~~neither~~ ^{not} in any financial distress and as such even if this application is considered to have been filed within limitation, it is not maintainable and deserves rejection.

4. I heard the learned counsel for the parties and have examined the record in great detail.

5. Though the applicant has approached this Tribunal with a specific stand that his elder brother is living separately and he has to support his own family; yet there is not a single word about the fact that his elder brother Shri Ramesh Chander has been living separately from the family of the deceased. In the reply the respondents have given out that the applicant's brother has been earning Rs. 3000/- per month from the Pan Shop. Further, the applicant's mother has tried to

assert that his elder son is living separately but the facts have been found otherwise from the affidavit as at Ann.A6. The respondents considered the matter earlier also and intimated the decision taken therein to the Dy. COS, Jhansi vide letter dated 6.6.97 (Ann.R2); that the family of the deceased does not appear to be in any financial distress as the elder son is already employed.

6. In support of the applicant's case, the learned counsel for the applicant has relied upon the decision of Hon'ble the Supreme Court in the case of Smt. Phoolwati vs. Union of India and Ors., AIR 1991 SC page 469 . In this regard, reference to one of the latest pronouncement of Hon'ble the Supreme Court in the case of U.K.Nagpal vs. State of Haryana, JT 1994 (3) SC 525 is relevant. In this case Hon'ble the Supreme Court while considering the matter has observed:-

".. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

7. In any view of the matter, it cannot be said that the family of the deceased employee Shri Puran Singh has remained in any financial distress or needed immediate financial assistance after the death of the employee. There is thus no irregularity or illegality in the decision communicated to the applicant vide the impugned communication dated 3.7.97 (Ann.A1).

8. The objection raised by the respondents regarding jurisdiction or limitation are not borne out on facts; moreso when even by their circular dated 22.12.94 the General Manager of the respondent Railways could relax the period to entertain the applications to seek employment on compassionate grounds.

9. For all the aforesaid reasons, there is no merit in this OA, which is dismissed with no order as to costs.



(RATAN PRAKASH)
JUDICIAL MEMBER