

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 20th September, 2001

OA No.244/2001

Smt. Anwar Jahan w/o late Shri Abdul Hamid r/o Mahatma Gandhi Colony,
Mala Road, Mala Phatak, Gali No.13, Kota aspirant of appointment of
her son Shri Bundu Khan on compassionate grounds.

..Applicant

Versus

1. The Union of India through General Manager, Western
Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota
Division, Kota.
3. Senior Divisional Personnel Officer (Establishment),
Western Railway, Kota Division, Kota.

.. Respondents

Mr. C.B.Sharma, counsel for the applicant.

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

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.A.P.Nagrath, Administrative Member

ORDER

Per Hon'ble Mr. A.P.Nagrath, Administrative Member

The applicant is widow of late Shri Abdul Hamid, who
expired on 25.2.2000 while working as Khalasi in Loco, Kota Division.
The applicant, vide her application dated 23.2.2001 followed by letter
dated 11.5.2001 had requested to the respondents to appoint her eldest
son Shri Bundu Khan in a suitable post on compassionate grounds.
Having heard no response from the concerned authorities, she has filed
this OA with a prayer that the respondents be directed to consider and
give appointment to her son on compassionate grounds.


2. Notices of this application have been sent to the



respondents, who have stated in the reply that applicant's son Shri Bundu Khan is illiterate. Under the rules for appointment on compassionate grounds, a candidate must possess the qualification of class 8th pass for being considered for a Group 'D' post. Since Shri Bundu Khan is illiterate, he cannot be appointed on compassionate grounds.


3. While there is no dispute on the rule position, the learned counsel for the applicant stated that this rule came into force when the Railway Board issued letter dated 4.3.1999. Prior to that there was no such requirement of having passed atleast class 8th examination. The learned counsel submitted that in the same letter there is a provision that if General Manager feels that a relaxation in the minimum educational qualification is absolutely necessary, then such cases may be referred to the Railway Board. The learned counsel for the respondents states that this requirement of educational qualification has been done away with, in case the widow seeks employment for herself and he submitted that respondents are prepared to consider her request in case the applicant herself makes a request for her own appointment.

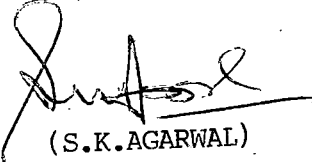
4. We have perused the letter dated 4.3.1999 and we also find that subsequently by letter dated 1.8.2000 the Railway Board has decided that in the cases which were under scrutiny or under process for compassionate appointment in Group 'D' before issue of Board's letter of 4.3.1999, should be exempted from possessing the minimum qualification of 8th class. The case before us is of a date where the ex-employee expired on 25.2.2000 and relaxation given by the Railway Board vide letter dated 1.8.2000 is not applicable in this case. We have also given our careful consideration to the plea of the learned counsel for the applicant that directions can be given to the General



Manager to refer the case to the Railway Board. The rule is clear that a case can be referred to the Railway Board, if on merits of the case the General Manager feels that relaxation in the minimum educational qualification is absolutely necessary. This obviously is to the satisfaction of the General Manager himself and in such cases no direction can be given by a Court or the Tribunal to the authority who has to take a view himself based on the facts and circumstances of the case. In our considered view, the applicant is best advised either to seek employment for herself or make a request to the General Manager to refer the matter of her son's employment to the Railway Board. We are not inclined to give any direction in this matter to the General Manager.

5. We, therefore, dismiss this application, but with no order as to costs.


(A.P. NAGRATH)
Adm. Member


(S.K. AGARWAL)
Judl. Member

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