

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 09.12.2004

Original Application No.551/2003.

Naresh S/o Shri Sannoo (Retired Senior Points Man, Kota Division, Kota), aged about 26 years, R/o Behind Retired Railway Employees Colony, Shyamgarh, District Mandisor, Kota Division.

... Applicant.

v e r s u s

1. Union of India through its General Manager, Central Western Railway, Jabalpur.
2. The Divisional Railway Manager, Central Western Railway, Kota Division, Kota.

... Respondents.

Mr. Shiv Kumar counsel for the applicant.
Mr. S. P. Sharma counsel for the respondents.

CORAM

Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) :

This OA under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant to seek for the following reliefs :-

"i) That the Hon'ble Tribunal may kindly call for and examine the entire records relating to this case and by appropriate writ, order or direction to quash and set aside the impugned order dated 12.12.2002 (Annexure A/1) and further by an appropriate order or direction direct the respondents to consider the case of applicant for appointment on a suitable post on compassionate grounds.

ii) Any other order/direction/relief's may be passed in favour of applicant which may be deemed fit, just and proper under the facts and circumstances of this case.

iii) That the cost of this application may be awarded."



2. The facts of the case in brief as stated in the application are that the father of the applicant, Senior Points Man in the Railways, was retired on medical grounds and he requested for appointment of the applicant on compassionate grounds but the same was rejected on 07.02.1997. Aggrieved by this order, he preferred OA No.168/2002 & MA No.142/2002 (filed for condonation of delay). After consideration of all facts and rules, Tribunal vide order dated 17.04.2002 directed Railway administration to decide the application of the applicant for appointment on compassionate ground by reasoned and speaking order. A copy of the order has been annexed as Annexure A/2.

2.1 The applicant thereafter send a detailed application dated 29.04.2002 (Annexure A/3) to respondent No.1 to accord appointment on compassionate grounds to him. The same was rejected vide order dated 12.12.2002 (Annexure A/1). The applicant then filed OA No.563/2002 praying for the same relief. However, in this OA instead of impugning order dated 12.12.2002 (Annexure A/1), letter dated 17.09.2002 (Annexure A/4) of this OA was impugned and prayed to be quashed. After careful consideration of all facts and circumstances of the case, Hon'ble Tribunal made detailed observation and disposed of the OA pointing out that the order dated 17.09.2002 addressed to the father of the applicant cannot be said to be the impugned order especially due to the order as conveyed to the applicant vide letter dated 12.12.2002, on the basis of which the OA is not maintainable and the same was dismissed without expressing any finding on merit. The applicant then preferred the present OA impugning therein order dated 12.12.2002.


3. In the facts and grounds of the application, it is stated that as per extant rules, the applicant is eligible and entitled to consideration for

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compassionate appointment because his father's pension and other pensionary benefits are meagre and he qualifies for such consideration. That under rules and as per decisions of Apex Court in many cases pensionary benefits cannot be made sole ground of rejection of compassionate appointment. That under rules governing compassionate appointment relaxation of age could have been given by the respondents, which has been unjustly denied and the same could be done in relation of minimum educational standards also. It is also stated that the retirement age of Group D employees in Railways is 60 years and not 53 years. Therefore, the respondents have wrongly presumed that the applicant's father was to retire within 3 months and in fact, he was to retire after two years and three months and then only he would have been eligible for full pension. Thus the impugned order is wrong and deserves to be quashed.

4. The respondents have given a detailed reply. The facts of retirement of the father of the applicant on medical ground and rejection of his application for appointment of his youngest son Naresh on compassionate grounds are admitted but it is reiterated that the decision of the respondents on his representation is well reasoned and speaking order as ordered by the Tribunal in its order dated 17.04.2002 passed in OA NO.168/2002 and the reasons mentioned therein are valid for which the present application deserves to be not allowed.

5. While annexing copy of the Railway Board's Letter No.E(P&A), I-98/RT-6 dated 14.05.1998 on the subject of raising of age of retirement on the basis of recommendations of Vth Central Pay Commission, it is stated that the applicant's father was to attain age of superannuation on 31.01.1996 and that the Railway employees prior to 13.05.1998 were to attain the age of superannuation at the age of 58. Thus the father of the applicant attaining the age of superannuation on 31.01.1996 was to retire at the age of 58 years and was




thus retired on medical grounds on 12.10.1995 was retired only 3 months prior to his attaining the age of superannuation and not two years and three months earlier than his age of superannuation.

5.1 The respondents have also raised serious issue of false averment in this OA and earlier OA No.563/2002 that the applicant's family comprises of his wife and his son, the present applicant, only because as per service record applicant's father Shri Sannuu has two married sons besides the applicant. It is stated that due to this false statement, the applicant does not deserve any sympathetic consideration. The ground of indigency taken by the applicant is also denied because the applicant's father received full pensionary benefits having served 34 years service in the Railways and is still alive and continues to receive the same.

6. No rejoinder was filed and during argument, learned counsel for the applicant and the respondents argued on the lines of pleadings on record.

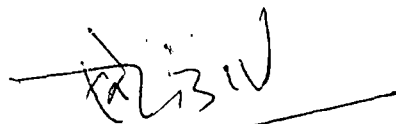
7. After careful consideration of all facts, it is felt that the application is wholly mis-conceived. I take serious note of the false averment of the applicant about being the only son of the medically retired railway employee and consider it a serious concealment of true facts by him. His two older brothers who are married must also be gainfully employed and, therefore, indigent circumstances do not exist in this case. This case has also to be distinguished from the cases of compassionate appointment due to the death in harness of government employees, in whose cases only family pension is received by the dependents of the deceased but here the father of the applicant is receiving full Pension. By pleading that the applicant's age of retirement was sixty (60) years and not fifty eight (58) years also the applicant has tried to mislead the Tribunal, which has to be deprecated. Normally a person at the age of 25 years and above has not to be considered for



compassionate appointment and the same is reiterated in a decision of Jodhpur Bench of this Tribunal in the case of Om Prakash vs. Union of India & Ors., OA No.109/2003, decided on 18.07.2003. In view of this, no relaxation of age could have been given by the respondents. Rejection of his claim on the basis of not meeting educational qualification requirement is also legitimate and rules in this regard are very clear that this relaxation can be given only in very compelling circumstances for a limited period of time during which the applicant has to reach up to the required educational standard and such circumstances did not exist in this case.

7. It is also pertinent to refer to Hon'ble Supreme Court's decisions reported vide 2004 Vol.VII SCC 938 and 2004 Vol.VII SCC 943 in the cases of Punjab National Bank and others vs. Ashwini Kumar Taneja and General manager T&VP and Others vs. Kunti Tiwari and others respectively on the subject of compassionate appointment. In these decisions it is enjoined that pensionary benefits received by the family of the deceased or medically decategorised employee's dependent have to be taken into consideration while considering the cases of compassionate appointment. In the light of these decisions also, the claim of compassionate appointment of the applicant has been correctly rejected by the respondents because father of the applicant is receiving full pension and has been paid all retiral dues in time by the respondents.

8. In these circumstances, the application is considered mis-conceived and is dismissed with no order as to costs.



(A. K. BHANDARI)
MEMBER (A)