

**CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT COURT SITTING AT INDORE**

Original Application No. 155 of 2004

Date of order : 17.5.2005

C O R A M

**Hon'ble Shri M.P. Singh, Vice-Chairman
Hon'ble Ms. Sadhna Srivastava, Member [J]**

Sudhir , S/o Late Pandhrinath Kale, resident of Ganesh Talai Road, Opposite
Kondia Hanuman Mandir, Khandwa, M.P. (MP)

...Applicant

(By Advocate – Shri M.I. Khan)

Vs.

1. Union of India through through the General Manager, Central Railway,
Chhatrapati Shivaji Terminus, Mumbai.
2. The Divisional Rail Manager, Central Railway, Bhusawal Division
Bhusawal.

..Respondents

(By Advocate – Shri H.Y. Mehta on behalf of Shri Y.I. Mehta)

O R D E R

By Ms. Sadhna Srivastava. M (J):-

The applicant seeks direction for providing compassionate
appointment.

2. The facts , as revealed from the pleadings of the parties , are that
Chandramani, son of late Pandhrinath Kale who was working as a Gangman in
Unit No. 15, Central Railway, Khandwa , met with train accident and died on
31.8.1989. The said Chandramani was unmarried but he left behind the
following relatives and family members.

- (i) Kaushalyabai, mother
- (ii) Ganesh Pandhrinath, brother
- (iii) Anil Pandhrinath, brother
- (iv) Sunil Pandhrinath, brother
- (v) Sudhir , brother

3. The applicant, Sudhir alleges that his elder brother, Ganesh

Pandhrinath was employed in the railway, and two other brothers were also employed but details have not been provided. However, it is alleged that Shri Ganesh Pandhrinath and two other brothers of the applicant were living separately and ~~were~~ [✓] not providing any support to the applicant who is living with his mother. As such, we have to examine the circumstances of the applicant and his mother. The applicant alleges that he had applied for compassionate appointment on 30.11.2002 (Annexure A/2) and on 20.12.2003 (Annexure A/3). The respondents alleges that no such applications were received. In any case, it remains a fact that the applicant, if at all, applied only after 13 years of the death of Chandramani. Chandramani had admittedly died on 31st August, 1989.

4. The financial status of the applicant's mother is evident from the following facts.

(a) Smt. Kaushlyabai was granted succession certificate and she received the amount of Rs. 23,850/- due as retiral benefits, after the death of Chandramani (Annexure A/6)

(b) By order of the High Court of M.P., Kaushlyabai was held entitled to compensation of Rs. 83,968/-, granted to late Chandramani under the workmen compensation ^{✓ ACT ✓} (Annexure A/7). In this order, the claim of Smt. Shushilabai to be wife of Chandramani was rejected, and Smt.

Kaushlaybai, the mother of the deceased employee was held entitled to ^{✓ the ✓} be legal heir of Chandramani.

(c) By order of the Tribunal in OA 651 of 2002, Smt. Kaushlaybai was also held entitled to family pension with effect from 1.1.1998.

AB

5. In the background of the above circumstances, we have to consider whether the direction for compassionate appointment should be issued by us. There are catena of judgments laying down that the retiral benefits is a valid consideration in the matter of compassionate appointment; that the purpose of compassionate appointment is to mitigate the hardship due to death of the employee; that the compassionate appointment is not a right ; that the compassionate appointment , after a long years of death of the employee has no relevance.

6. In the instant case, the application has been made (which is disputed by the respondents) after more than 13 years of the death of the employee. The mother of the applicant (with whom the applicant is admittedly living) has received a fair amount as retiral benefits and compensation under the Workmen Compensation Act. She is in receipt of family pension. Thus, the applicant and his mother are better placed financially than in the life time of the employee.


7. In State of U.P. And ors vs. Paras Nath , 1998 (2) SCC 412, it was held that the purpose of providing employment to the dependent of a government servant dying in harness in preference to anybody else is to mitigate hardship caused to the family of the deceased on account of his unexpected death while in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are rules providing for such appointments. None of these considerations can operate when the application is made after a long period of time.


8. In Smt. Sushma gosain and ors vs. Union of India and ors-

(1989) 4 SCC 468= 1990 (1) SLJ 118 (SC) , it was observed that in all claims of appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointments should , therefore, be provided immediately to redeem the family in distress. The fact that the ward was a minor at the time of death of his father is no ground, unless the scheme itself envisage specifically otherwise, to state that as and when such minor becomes a major he can be appointed without any time consciousness or limit. The above view was reiterated in Phoolwati (Smt) vs. Union of India and ors, 1991 Supp. (2) SCC 689 and Union of India and ors vs. Bhagwan Singh , 1995 (6) SCC 476 = 1996 (1) SLJ 100 (SC).

9. The above cases have been relied upon by the Supreme Court in two recent decisions. (i) 2005 SLJ Vol. 1 page 30 and (ii) 2005 SLJ Vol. 1 page 281.

10. The appointment on compassionate grounds is not a source of recruitment but merely ^{an exception} to provide financial assistance to the family of the deceased immediately after the death of the employee. It is not a source of recruitment for family members or heirs of the deceased employee. The relevance of compassionate appointment is completely lost after lapse of so many years . Therefore, we do not find any merit in the present case. The OA is dismissed. No order as to costs.


[Ms. Sadhna Srivastava]
Member (Judicial)


[M.P. Singh]
Vice-Chairman

/cbs/