

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH  
CIRCUIT COURT SITTING AT INDORE

Original Application No. 182 of 2004

Indore, this the 29<sup>th</sup> day of April, 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Ms. Sadhna Srivastava, Judicial Member

Sanjay Kumar Verma, aged 40 years,  
S/o. late Shri Kalu Singh Verma,  
Resident of Opposite Samoti Kirana  
Bhandar, Behind Panja Bidi Factory,  
Ganj Bazar, Khandwa.

... Applicant

(By Advocate - Shri Umesh Gajankush)

V e r s u s

1. Union of India, through Secretary,  
Railway Board, Rail Mantralaya,  
New Delhi.

2. General Manager (Recruitment Section),  
Western Railway, Churchgate, Mumbai.

3. Divisional Railway Manager  
(Establishment Section), Mumbai  
Central Division, Western Railway,  
Mumbai.

... Respondents

(By Advocate - Shri Y.I. Mehta)

O R D E R

Ms. Sadhna Srivastava, Judicial Member -

Heard the learned counsel for the parties.

2. The subject matter is Compassionate appointment. The factual background which is almost undisputed is as follows:

2.1 The father of the applicant died on 22.2.1996 while working as a Guard, leaving behind widow, one son and one daughter. At the time of death, the applicant Shri Sanjay Kumar Verma was minor. His date of birth being 3.3.1963, the applicant had attained majority on 3rd March, 1981. After the death of Shri Kalu Singh Verma request for compassionate appointment in favour of the applicant was received on 20th August, 1986 i.e. after lapse of 5 years after he attained majority. This being a time barred case his request for appointment on compassionate ground was

rejected. Aggrieved by the order of the respondents dated 24.9.1993 the applicant has filed OA No. 645/2003 before this Tribunal which was disposed of with the direction to the applicant to make a detailed representation to the respondents and the respondents shall consider the representation of the applicant within three months from the date of receipt of the representation from the applicant. In compliance of the order of the Tribunal the applicant has preferred a representation (Annexure A-20) to the respondent No. 2. The same has been considered and the representation of the applicant has been rejected by a speaking order dated 19.12.2003 which is impugned in the present Original Application. The applicant assailed the order dated 19.12.2003 mainly on the ground that the respondent No. 2 has not passed the order as per the direction of this Tribunal. The family of the deceased is in financial distress and deserves sympathetic view. The learned counsel for the applicant has argued that the respondent No. 2 has ignored paragraphs 7 and 8 of the order of this Tribunal. Paragraph 7 reads as such that "in case the application was made in the year 1981, it is within the 20 years limit, for which General Managers have been empowered to take a decision as per Paragraph 2 of the above letter." In paragraph 8 of the judgment this Tribunal has held that there is no dispute that the application was made on 20.8.1986 which is only a few months beyond the dead-line of 20 years and it is a fit case where the competent authority may consider the case for compassionate appointment.

3. On the contrary the counsel for the respondents have argued that the applicant has failed to file an application for compassionate appointment immediately on attaining majority in 1981. The application was filed after a long lapse of time. The learned counsel for the respondents has submitted that the facts in the representation of the applicant had been considered by the respondent No. 2 and



after applying the mind the representation of the applicant has been rejected.

4. The law of compassionate appointment is well settled by now by the Hon'ble Supreme Court that compassionate appointment can neither be sought as a matter of right nor as a line of succession. Infact, the Government of India has issued instructions to all the Departments to consider the cases of those persons who seek compassionate appointment and in case, it is found that family of the deceased employee is in ~~the~~ total destitute condition and are financially distressed and they need immediate assistance to tide over the crises left behind by the sudden death of the employee, only in such circumstances, compassionate appointment should be granted that too, <sup>✓ Subject ✓</sup> to the ceiling of 5% vacancies in direct recruitment. In the instance case it is seen that the widow of the deceased could have applied <sup>for</sup> her appointment on compassionate ground. immediately after the death of her husband but she waited for 20 years and the applicant <sup>when</sup> her son <sup>attained</sup> the age of majority in the year 1981 also has not applied in the year 1981 but he applied in 1986, after a gap of 5 years which shows that the applicant was not very much serious about this appointment.

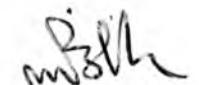
5. In State of U.P. and Ors. Vs. Paras Nath, (1998)2SCC412 it was held by the Apex Court that the purpose of providing employment to the dependents of a Government servant dying in harness in preference to anybody else is to mitigate hardship caused to the family of the deceased on account of his unexpected death while in service. To alleviate the distress of the family, such appointments are permissible on compassionate ground provided there are rules providing for such appointments. None of these considerations can be operative when the application is made after a long period of time. Admittedly in the present case the application for

compassionate appointment was made after 20 years of death of the deceased Government servant. By no stretch of imagination the reasoning given by the respondents can be said to be unjustified or arbitrary as it is based on the judgments and principles laid down by the Hon'ble Supreme Court. The applicant cannot claim compassionate appointment as a matter of right or as line of succession, simply because his father died in harness, and He can always compete with others for gaining/into service otherwise his appointment itself will be in violation of Articles 14 and 16 of the Constitution. Hence, no case is made out for compassionate appointment.

6. In view of the aforesaid, the Original Application is dismissed with no order as to costs.

  
(Ms. Sadhna Srivastava)

Judicial Member

  
(M.P. Singh)  
Vice Chairman

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उप संस्कृत

4. Gajendra  
B.S. Bhand  
4. L. Mehta  
B.S. Bhand

Issued  
on 11.05.05  
by