

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,
JABALPUR

Original Application No. 801 of 2003

Indore, this the 12th day of January, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Vindod son of Mangu Ratna, 48, Rail Nagar,
Near Shimla Colony, Ratlam.
2. Smt. Shanti Bai widow Mangu R.
Resident of Ratlam. **Applicants**

(By Advocate – Shri S.L. Vishwakarma)

V e r s u s

1. Union of India, through General Manager,
Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager,
Western Railway, Ratlam. **Respondents**

(By Advocate – Shri Y.I. Mehta)

O R D E R (Oral)

By Madan Mohan, Judicial Member –

By filing this Original Application the applicants have claimed the following main reliefs :

“8.1 to quash GM/CCG letter dated 19.9.2002 Annexure A-1,

8.2 to order the respondents to consider the case of reappointment of applicant Vinod son of Mangu Ratna on compassionate grounds on the post for which the applicant is found suitable by the Railway screening committee.”

2. The brief facts of the case are that the applicant No. 1 is the eldest son of late Mangu Ratna, who was employed as locomotive Driver under Divisional Railway Manager, Ratlam. Mangu Ratna was declared medically unfit for the post of Driver on 2.6.1997. Being medically



decategorised and being illiterate he decided to retire voluntarily. His request for voluntary retirement was accepted by DRM/Ratlam on 2.12.1997. Late Mangu requested GM/CCG on 23.11.2001 to appoint his eldest son i.e. applicant No. 1 on compassionate ground. Such a request for appointment on compassionate grounds can be submitted within a period of 5 years in terms of Railway Board's letter dated 15.2.2000. The applicant No. 1 was minor at the time when his father was medically decategorised. The father of the applicant No. 1 died on 31st May, 2003. There is no earning member in the family of the applicants. Late Mangu constructed a small house by raising loans from the market. The claim of the applicants was regretted vide Annexure A-1. The respondents have not considered the case of the applicants properly. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicants that the father of the applicant No. 1 was medically decategorised. Thus, he submitted an application for voluntary retirement which was accepted by the respondents vide order dated 2.12.1997. Late Mangu also requested the respondents to appoint the applicant No. 1 on compassionate ground. He further argued that at the time of declaring late Mangu medically decategorised the applicant No. 1 was minor. Subsequently, late Mangu died. The respondents did not consider any contentions and circumstances of the applicants and rejected the application for appointment on compassionate ground vide impugned order dated 19.9.2002 (Annexure A-1), against the rules. The learned counsel for the applicants has drawn our attention towards Annexure A-7 in which it is mentioned that if alternative job with the same emoluments is not offered to an employee who is medically decategorised for the job he is holding then appointment on compassionate ground is permissible. In the impugned order Annexure

A-1 it is mentioned that the respondents had offered alternative job to the deceased Government servant, of ATFR, while late Mangu was an illiterate person and this offer was not of the same nature as the applicant No. 1's father was a driver. He has also drawn our attention towards the judgment passed by the Central Administrative Tribunal, Jabalpur Bench in the case of Kishan Das Vs. Union of India and Ors. in OA No. 553/2003 dated 31.10.2003. Hence, the applicants are entitled for the reliefs claimed by them.

5. In reply the learned counsel for the respondents argued that, the impugned order dated 19.9.2002 (Annexure A-1) clearly shows that an alternative job of ATFR was offered to the deceased Government servant Late Mangu, Goods Driver but he refused and choose to retire voluntarily. Hence, the respondents are not bound to appoint the applicant No. 1 on compassionate ground according to the rules. Late Mangu was having only one year service left. The respondents have passed the impugned order according to the rules. He further argued that the applicant has filed this OA after a considerable delay. Hence, this Original Application is also time barred. The action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the records and pleadings, we find that the applicants have given sufficient grounds in the application for condonation of delay. Hence, we condone the delay. In the merits of the case we find that, Annexure A-7 dated 22.9.1995 provides as under :

"In terms of the instructions contained in Para I(iv) of Board's letter No. E(NG)III/78/RC-1/1 dated 7.4.83 and 3.9.83, appointment on compassionate grounds is permissible where a Railway employee becomes medically decategorised for the job he is holding and no alternative job with the same emoluments can be offered to him and also where a Railway employee is offered alternative employment on the same emoluments but it is not accepted by the employee and he chooses to retire from service.

2. The question whether appointment on compassionate ground can be considered in the case of a medically declassified employee who does not wait for the Administration to identify an alternative job for him but chooses to retire and makes a request for such appointment, has been under consideration of the Board.

3. After careful consideration of the matter Board have decided that in partial modification of Board's letter No. E(NG)III/78/RC-1/1 dated 3.9.83, in the case of medically decategorised employee, compassionate appointment of an eligible ward may be considered also in cases where the employee concerned does not wait for the administration to identify an alternative job for him but chooses to retire and makes a request for such appointment."

We have perused the impugned order Annexure A-1 in which the respondents have offered alternative job of ATFR to the deceased Government servant late Mangu who was a Goods Driver and according to the respondents he refused to accept it and requested for his voluntary retirement which was accepted by the respondents. The arguments advanced on behalf of the applicants in this regard that the respondents did not offer the same job with same emoluments to the late Mangu is correct as late Mangu was a Driver and also was illiterate and he was offered the job of ATFR, which was not having the same nature of duties. We further find that the date of birth of late Mangu is said to be 11.1.1941 and vide Annexure A-1 the respondents have mentioned that only one year service was left of the deceased Mangu which is an incorrect statement as late Mangu would have retired on superannuation on 31.1.2001. Hence, three years further service was remaining with late Mangu. We have also perused the judgment of the Tribunal quoted by the applicant in the case of Kishan Das (supra).

7. After considering all the facts and circumstances of the case we are of the opinion that the impugned order dated 19.9.2002 (Annexure A-1) is liable to be quashed and set aside. We do so accordingly. The respondents are directed to consider the case of the applicant No. 1 for appointment on

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compassionate ground, in view of the observations made above, within a period of three months, from the date of receipt of a copy of this order.

8. Accordingly, the Original Application stands allowed. No costs.


(Madan Mohan)
 Judicial Member


(M.P. Singh)
 Vice Chairman

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पृष्ठांकन सं ओ/व्या..... जबलपुर, दि.....
 पत्रिलिपि अब्दो डिर्ल:—

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आकेदक श्री/श्रीमती/चु..... रो काउंसल
- (3) प्रत्यार्पी श्री/श्रीमती/चु..... रो काउंसल
- (4) नं., कोप्रा, जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

S.L. VISHWAKARMA

Dr. Ratlam.

T.P. Mehta ०१६
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बहु बनिष्ठदार


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