

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.**ORIGINAL APPLICATION NO. 181/2013****DATE OF ORDER : 19.01.2015****CORAM :****HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER**

Mr. Imran Khan sonof Late Janab Nasiruddin, by caste Muslim, aged about 25 years, resident of Taj Rolling Shutter, Near Jama Masjid, Gangapur City.

... Applicant

(By Advocate: Mr. P.N. Jatti)

Versus

1. Union of India through the General Manager, West Central Railway, Jaipur.
2. Divisional Railway Manager, West Central Railway, Kota.
3. Senior Divisional Personnel Officer, Office of Divisional Railway West Central Railway, Kota.
4. Senior Divisional Yantrik Abhiyanta, Kota Division, West Central Railway, Kota.

... Respondents

(By Advocate: Mr. D.K. Pathak)

ORDER (ORAL)

The applicant has filed this OA praying for the following reliefs:-

- "(i) That by a suitable writ/order or the direction the impugned order dated 13.03.2012 being arbitrary be quashed and set aside.
- (ii) That as per the orders dated 14.06.2006 the appointment on the base of the compassionate grounds be allowed to the applicant with effect from the date of representation dated 19.09.2011 with all the consequential benefits.
- (iii) Any other relief which the Hon'ble Bench deems fit."

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2. The brief facts of the OA, as stated by the learned counsel for the applicant, are that the father of the applicant, Janab Nasiruddin, was a permanent employee of the department of Railways. That as Mr. Nasiruddin was not feeling well, therefore, Nasiruddin applied the respondent department for invalid retirement on the basis of sickness. That the Railway authorities allowed the retirement of Mr. Nasiruddin on the basis of sickness. That the applicant, who is the son of Nasiruddin, submitted a representation to the authorities for allowing appointment on the basis of compassionate grounds on 19.09.2011 as per the rules of the department (Annexure A/4). His representation dated 19.09.2011 has been rejected by the respondents vide letter dated 13.03.2012 (Annexure A/1) on the ground that the father of the applicant took voluntary retirement. He was never offered an alternative job on the ground of medical decategorization. The Scheme of compassionate appointment is applicable only to those employees who are medically decategorised and are offered alternative appointment with the respondents and who do not join on the alternative employment offered to them. Instead they seek voluntary retirement under medically decategorised category. The case of the applicant is not covered under the policy. Hence the case of the applicant for providing appointment on compassionate grounds cannot be considered by the respondents. The learned counsel for the applicant submitted that the case of the applicant is covered by the policy of the respondent department as per circular No. RBE No. 78/2006 dated 14.06.2006 (Annexure A/5). Therefore, the

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respondents be directed to consider the case of the applicant for appointment on compassionate grounds as wards of medically decategorised staff.

3. On the other hand, the respondents have filed their written reply. In their written reply, the respondents have taken the preliminary objection of limitation. The respondents have stated that the father of the applicant, Janab Nasiruddin, sought voluntary retirement from service on 05.12.2001 on the ground of his suffering with decease and the respondents considering his request as three months notice period, granted approval of voluntary retirement w.e.f. 05.03.2002 vide order dated 16.01.2002 (Annexure R/1). Therefore, the applicant has raised his grievance after a long period of ten years. Therefore, the OA be dismissed on the ground of delay alone.

4. The respondents have further stated that according to scheme of Railway Board issued vide RBE No. 78/2006 dated 14.06.2006, where an employee has been medically invalidated/ decategorised where the administration cannot find alternative posts for such an employee, he may be kept on a supernumerary post in the grade in which he was working on regular basis, till such time suitable post can be identified or till his retirement, whichever is earlier. In the present case, the deceased Janab Nasiruddin had submitted application for simple voluntary retirement, while he was not medically decategorized by the Medical Board. In cases of medical decategorization, the employees are examined by the Medical

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Board of the Department, as such, the applicant is not entitled to get the benefit under the scheme of the Railway Board.

5. The learned counsel for the respondents also referred to letter dated 16.01.2002 (Annexure R/1) vide which the request of Janab Nasiruddin was accepted as simple voluntary retirement. There was no application by Janab Nasiruddin for being medically examined to be declared as medical decategorised. He took voluntary retirement on the basis of his sickness. This will not extend the benefit of circular dated 14.06.2006 as relied upon by the learned counsel for the applicant. Therefore, the respondents have rightly rejected the representation of the applicant for appointment on compassionate grounds.

6. The learned counsel for the applicant has also filed a rejoinder. In the rejoinder also, the applicant has stated the facts as mentioned in the OA. He has reiterated that Janab Nasiruddin sought voluntary retirement on the basis of his sickness. Therefore, the applicant is entitled for the benefit of Scheme as per the circular dated 14.06.2006 (Annexure A/5).

7. Heard the learned counsel for the parties and perused the documents on record. It is not disputed that the father of the applicant while working with the respondent department sought voluntary retirement on the basis of his sickness. He applied for voluntary retirement on 05.12.2001. The respondents treating the letter dated 05.12.2001 as notice of

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three months period accepted the prayer of Janab Nasiruddin of voluntary retirement with effect from 05.03.2002 vide letter dated 16.01.2002 (Annexure R/1). The perusal of this office letter clearly shows that the father of the applicant, Janab Nasiruddin, was retired from 05.03.2002. The respondents have given voluntary retirement to Janab Nasiruddin.

8. I have carefully perused the policy of the respondent department issued vide Circular RBE NO. 78/2006 dated 14.06.2006 (Annexure A/5) with regard to appointment on compassionate grounds to wards/spouse of medically declassified staff of the Railways.

9. Para 4 of these guidelines provide the circumstances in which the wife/wards of the medically declassified staff who seeks voluntary retirement may be given compassionate ground appointment. The father of the applicant was never declared medically declassified by the respondents nor was he offered an alternative job on the ground of medical declassification. He submitted a request for giving voluntary retirement on the basis of his illness (Annexure A/2). His request was accepted by the respondents, therefore, the case of the applicant is not covered by the provisions of RBE No. 78/2006 dated 14.06.2006 (Annexure A/5). From the perusal of office order dated 16.01.2002 (Annexure R/1), it is clear that Janab Nasiruddin, father of the applicant sought voluntary retirement and considering his letter dated 05.12.2001 as three months notice period, the applicant's request for

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voluntary retirement was approved with effect from 05.03.2002.

10. On the basis of above discussion, the applicant is not entitled for any relief in the present OA.

11. Consequently, the OA being bereft of merit is dismissed with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

Abdul