

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH,  
ALLAHABAD**

Dated: This the 30<sup>th</sup> day of January 2018.

**HON'BLE DR. MURTAZA ALI, MEMBER – J**

**Original Application No. 1586 of 2012.  
(U/s 19, Administrative Tribunals Act, 1985)**

Hemant Pal S/o Late Roop Singh Pal R/o House No. 677 Nainagarh,  
Nagra Jhansi, District Jhansi.

.....Applicant

By Adv: Shri S.M Ali

**V E R S U S**

1. Union of India through General Manager, North Central Railway, Subedar Ganj, Allahabad.
2. Divisional Railway Manager (P), North Central Railway, Jhansi.
3. Divisional Railway Manager, North Central Railway, Jhansi.

..... Respondents

By Adv: Shri P. Mathur

**O R D E R**

The applicant has filed this O.A. for quashing the impugned orders dated 2.8.2011 and 13.3.2012 by which the claim of applicant for granting compassionate appointment under Medical Decategorization Rules has been rejected.

2. The brief facts as stated in the O.A. are that the father of applicant Roop Singh was declared medically unfit for all medical categories on 26.8.1994 while working on the post of Pointsman – A and he was accordingly retired on 26.8.1994. The first wife of Roop Singh had died on 28.9.1977. The father of applicant solemnized second marriage with Smt. Malti. The applicant is first son of Smt. Malti besides one younger daughter. The father of applicant died on 23.4.1995. The applicant was minor at the time of death of his father. The mother of applicant had preferred an application for providing her compassionate appointment just after death of Roop Singh. The D.R.M (P) Jhansi had granted approval and sent her case to C.P.O Head Quarter Mumbai for granting sanction for her appointment. Later-on, she prayed for appointment of her son (applicant) but the respondents advised her to submit his claim for compassionate appointment when he attains majority. Accordingly, the mother of applicant preferred a representation on 9.2.2009 to D.R.M Jhansi for granting compassionate appointment in favour of applicant but the respondent No. 2 has rejected the claim on the ground that the claim of mother of applicant had already been rejected by the Head Quarter vide letter dated 22.8.1996 and she was duly informed on 17.9.1996. It has been alleged that the claim of compassionate appointment has wrongly been rejected while the

applicant is entitled to get appointment on compassionate ground.

3. In the counter reply, the respondents have stated that the request of Smt. Malti Devi was processed by the office of respondents by deputing a Welfare Inspector and on the basis of his report, the case was referred to the Headquarter Central Railway, Bombay which was rejected by the Competent Authority vide order dated 17.9.1996 (Annexure CR-1) and she was duly informed. It is further stated that the application dated 9.2.2009 preferred by Smt. Malti Devi for consideration of her son for compassionate appointment was also examined and it was found that the case of applicant was not covered under the instructions issued from Railway Board from time to time and the same was regretted and the applicant has been apprised of the position vide letter dated 6.1.2011 (Annexure CR-2).

4. In the rejoinder, the applicant has reiterated the averments made in the O.A. and further stated that one ward of medically unfit employee is entitled to get compassionate appointment vide circular dated 10.11.2011 (Annexure A-11) and the D.R.M had already granted approval vide letter dated 10.1.1996 (Annexure

A-8) in favour of his mother and she has not received any letter of rejection as claimed by the respondents.

5. Heard Shri S.M Ali counsel for the applicant and Shri P.K. Mishra proxy counsel for Shri P. Mathur counsel for the respondents and perused the record.

6. Learned counsel for the applicant would contend that the father of applicant was declared medically decategorised as he was declared medically unfit for all the medical categories on 26.8.1994 and he was retired on the same day. It is stated that the applicant is entitled to get compassionate appointment in view of Railway Board Circular dated 10.11.2000 (Annexure A-11). He relied upon the judgment of Hon'ble Supreme Court in ***Bhawani Prasad Sonkar Vs. Union of India and others*** reported in ***(2011) 1 Supreme Court Cases (L&S) 667.***

7. Learned counsel for the respondents submitted that the mother of applicant Smt. Malti Devi had preferred an application for compassionate appointment and her claim has already been considered and rejected vide order dated 17.9.1996 (Annexure C.R -1). It is further stated that the respondents have also

examined the case of applicant for compassionate appointment and it has been found that the case of applicant is not covered under the instructions issued by Railway Board.

8. I have gone through Railway Board Circular dated 10.11.2000 (Annexure A-11) which reads as under –

*"R.B.E No. 193/2000*

*(Supplementary Circular No. 45 to Master Circular No. 16)*

*Subject : Appointments on compassionate ground – Cases of Medical Decategorization*

*(No. E(NG)II/95/RC-1/94 dated 10.11.2000*

*"One of the Zonal Railways has sought Board's clarification as to whether requests received for compassionate appointment in case of medically decategorised employees who chose to retire voluntarily on medical grounds, before issuance of the Board's letter dated 18.1.2000 should be entertained.*

*The matter has been considered by the Board and it has been decided that, in all those cases, in which an employee, declared as medically decategorized before the issuance of Board's letter dated 29.4.99, sought voluntary retirement but he has not yet been given alternative appointment nor he has been adjusted against a supernumerary post, the facility of appointment on compassionate ground may be extended to one ward.*

3. *This also disposes off S.E. Rly's letter No. 9/Comp. Policy/Pt-IV/Loose/907 dated 28.4.2000".*

9. From the perusal of above circular, it appears that this circular has been issued as a clarification of Board's earlier letter dated 18.1.2000. The Railway Board had earlier issued a letter dated 18.1.2000 stating that when an employee is declared as medically unfit to perform the work which he was performing but is found to be fit to perform work in a lower category, any request for giving compassionate employment to such employee's ward would not be considered if the employee opts for voluntary retirement after being decategorised.

10. Railway Board letter dated 30.9.1983 also provides that in cases where on being medically decategorised, 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, compassionate appointment of eligible ward of the employee, if so requested by him, can be considered at the discretion of competent authority provided that if the employee has less than 3 years of service before superannuation at the time the decision is taken. In the Railway Board circular dated 22.9.1995, it has further been provided that 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. Thus there is no doubt that circular letters dated 7.4.1983, 3.9.1983 and 22.9.1995 are applicable in the instant case and one ward of medically decategorised employee was entitled to be considered for appointment when he chooses to retire and makes a request for such appointment.

11. From the perusal of record, it is evident that the father of applicant was declared medically unfit for all the medical categories on 26.8.1994 and he was retired on the same day. He did not apply for compassionate appointment for his wife or for any of his two sons who were born with his first wife till his death on 23.4.1995. The second wife of late Roop Singh Pal and mother of applicant had applied for her appointment on compassionate ground and her application was also recommended by D.R.M (P) Jhansi and it was sent to C.P.O Head Quarter Mumbai for approval vide D.R.M. (P) letter dated 10.1.1996 (Annexure A-8). A reminder was also sent on 28.6.1996 (Annexure A-9) for obtaining sanction of competent authority. It is the contention of applicant that his mother did not receive any reply and preferred a

representation dated 9.2.2009 (Annexure A-10) for consideration of appointment of applicant on compassionate ground whereas it has been argued on behalf of respondents that the claim of mother of applicant was rejected by the Head Quarter, Central Railway Bombay vide order dated 17.9.1996 (Annexure CR-1) and she was duly communicated the decision of competent authority.

12. It has categorically been denied by the respondents that they had ever given any advice to the mother of applicant that she should apply when her son (applicant) attains majority. There is nothing on record to substantiate the above assertions made on behalf of applicant. Not perusing the case of her compassionate appointment till 2009 by the mother of applicant, clearly shows that she was fully aware of the decision communicated to her vide letter dated 22.8.1996/17.9.1996. The mother of applicant did not choose to take any recourse for her claim for compassionate appointment for about 12 years and after lapse of 12 years, the son of applicant cannot be allowed to claim compassionate appointment as the Hon'ble Supreme Court has, in catena of cases, held that whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and appointment on compassionate ground cannot be claimed as a matter of right.

13. Considering the facts that the decategorised employee did not seek compassionate appointment for his ward till he died in 1995, the claim of his wife for compassionate appointment has already been rejected in the year 1996, the present O.A. filed by the son of deceased employee in the year 2012 has no force and is liable to be dismissed.

14. Accordingly, O.A. is dismissed. There is no order as to costs.

Member (J)

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## APPENDIX

## Applicant's Annexures in O.A

Sl. No.	Particulars	Dates	Annex.
1.	Copy of order	02.8.2011	A-1
2.	Copy of order.	13.3.2012	A-2
3.	Copy of medical unfit certificate.		A-3
4.	Copy of service certificate and payment order.	31.3.1995.	A-4 and A-5
5.	Copy of railway pass.		A-6
6.	Copy of death certificate of Roop Singh.		A-7
7.	Copy of letter of DRM (P)	10.01.1996	A-8
8.	Copy of reminder issued by DRM (P) Jhansi.	28.6.1996	A-9
9.	Copy of the representation.	09.02.2009	A-10
10.	Copy of railway Board circular.	10.11.2000	A-11
11.	Copy of caste certificate		A-12
12.	Copy of education certificate		A-13

## Respondents Annexures in Counter

Sl. No.	Particulars	Dates	Annex.

1.	Copy of order	17.9.1996	CR-1
2.	Copies of relevant instructions issued by the Railway Board.		CR-2