

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.203/01042/2016

Bilaspur, this Tuesday, the 25th day of September, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Rewa Ram Sahu, S/o Late Jhadu Ram Sahu, aged about 59 years, working as Cabin Master, S.E.C. Rly. Paniajob, R/o House No.92, Ward No.6, Murhipar, Dist. Rajnandgaon

-Applicant

(By Advocate – Shri B.P. Rao)

V e r s u s

1. Union of India through the General Manager, S.E.C. Railway, Bilaspur Zone, Headquarters' Office, Bilaspur – 495004 (CG).

2. The Sr. Divisional Personnel Officer, S.E.C. Railway, Nagpur Division, DRM's Office, Nagpur – 440001.

3. The Sr. Divisional Operations Manager, S.E.C. Railway, Nagpur Division, DRM's Office, Nagpur – 440001

-Respondents

(By Advocate – Shri R.N. Pusty)

O R D E R (R E A S O N E D)

By Ramesh Singh Thakur, JM.

The applicant has filed this Original Application seeking compassionate appointment to his elder son, namely; Sunil Kumar Sahu on account of medically de-categorisation.

2. He has sought for the following reliefs:

“8.1 That, the Hon’ble Tribunal be pleased to call for records of applicant’s case from the possession of the Respondents for its kind perusal and to decide the grievance of the poor applicant.

8.2 That, the Hon’ble Tribunal be pleased to pass an Order, directing the Respondents to consider the Applicant’s case for Compassionate Appointment to his Elder dependent Son namely Sunil Kumar Sahu in the interest of justice.”

3. Brief facts of the case are that the applicant, while working as Cabin Master in Nagpur Division, met with an accident on 11.05.2015 and his both legs were cut out below knee. He had undergone treatment in the Apollo BSR Hospital, Bhilai from 11.05.2015 to 23.05.2015. The applicant was thereafter referred to All India Institute of Physical Medicine and Rehabilitation (AIPMR), Mumbai, where he was provided by artificial limbs. Considering the 80% disability of the applicant, he was recommended for alternate employment on medical grounds (Annexure A-10) for Sedentary job in medical category Cey- one & below with glass for DV/NV.

4. The case of the applicant is that since he was unable to discharge any sort of duty without the help and assistance of somebody, therefore, he made a representation on 01.09.2016 (Annexure A-11) requesting the respondents to retire him and

consider his elder son for compassionate appointment. However, the respondents have not responded to it.

5. In their reply, the respondents have submitted that at the time of medical de-categorisation of the applicant, he was 59 years of age and had less than 01 year service before superannuation. Therefore, taking into consideration the rules and the guidelines on the subject, the claim of the applicant for compassionate ground appointment to his son, cannot be considered, as he did not have at least 05 years of service left, which is a pre-condition for considering compassionate appointment for a medically de-categorised employee.

6. We have heard the learned counsel for the parties and gone through the pleadings and documents available on record.

7. The Railway Board vide RBE No.8/2000 (Annexure A-13) has issued the guidelines regarding appointment on compassionate grounds in cases of medical invalidation decategorisation. Para 4 of the aforesaid RBE reads as under:

“4. In the cases of medical decategorisation i.e. those cases in which an employee becomes medically unfit for the post held at present but is fit to perform the duties of an alternative suitable post in lower medical category, the request for appointment on compassionate ground to an eligible ward will not be admissible, even if the employee

chooses to retire voluntarily on his being declared medically decategorised. Such an employee may then either be continued in a supernumerary post or allowed to retire voluntarily if he so desires but without extending the benefit of appointment on compassionate grounds to a ward."

8. Further instructions have been issued vide Establishment Rule No.123/2006 by South East Central Railway (RBE 78/2006) regarding consideration of the cases for appointment on compassionate grounds of ward/spouse of medically de-categorised person, Para 4 of which reads as under:

"4. Pursuant to the demand raised by staff side the issue has been deliberated upon at length in the full Board Meeting and it has been decided that compassionate ground appointment to the wife/wards/dependants of partially medically de-categorised staff who seeks voluntary retirement may be given subject to the following provisions:-

"(a) The appointment will be given only in the eligible Group 'D' categories. 'Eligible' would mean that in case Group 'D' recruitments banned for any particular category, the same would also apply for the compassionate ground appointments.

(b) Such an appointment should only be given in case of employees who are declared partially decategorised at a time when they have atleast 5 years or more service left.

(c) CMD of the Railways should keep a watch over the trend of de-categorisation so that the present figure do not get inflated. CMD should also get 10% partially decategorised cases re-examined by another medical Board not belonging to Divisional Hospital which initially declared them unfit."

9. Admittedly, the applicant was declared unfit in medical category Aye Two and was found fit for Sedentary job in

medical category Cey – one & below with glass for DV/NV, as per the certificate issued by Additional Chief Medical Superintendent, South East Central Railway, Motibagh, Nagpur dated 31.08.2016 (Annexure A-10). At the time of his partial medical de-categorisation, the applicant had less than 01 year service left. Hence, as per Para 4(b) of Establishment Rule No.123/2006 (Annexure R-1), he is not entitled to seek appointment of his ward on compassionate ground, as before declaring partially decategorised, the employee should have atleast 5 years or more service left. Even as per the guidelines issued by the Railway Board vide RBE No.8/2000, the ward of the applicant cannot be offered appointment on compassionate ground as the applicant was declared medically unfit for the post held by him at the time of medical de-categorisation and was recommended for alternative post in lower medial category.

10. In the result, the O.A is dismissed being devoid of merit.

No order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-