

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORIGINAL APPLICATION NO. 203/00100/2017

Jabalpur, this Tuesday, the 10th day of April, 2018

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

Suroti Lal, S/o late Smt.Milantin Bai, aged about 41 years,
R/o Village Bilaspur, Police Station Bhupdeopur,
District Raigarh (C.G.)-496551

- **APPLICANT**

(By Advocate – Shri Jeet Patel)

Versus

1. Union of India through the General Manager,
South Eastern Central Railway, Bilaspur Zone,
Headquarter Bilaspur (C.G.)-495004

2. Divisional Railway Manager, South Eastern Central
Railway, Bilaspur Division, Headquarter
Bilaspur (C.G.)-495004.

3. Divisional Personal Officer, South Eastern Central Railway,
Divisional Office, Personal Branch, Bilaspur (C.G.)-495004

4. Assistant Engineer, South Eastern Central Railway,
Office of Raigarh (C.G.)-496551

- **RESPONDENTS**

(By Advocate – Shri R.N.Pusty)

(Date of reserving the order:22.02.2018)

ORDER

By Ramesh Singh Thakur, JM-

The applicant is aggrieved by rejection of his request for grant of
compassionate appointment.

2. In this Original Application, the applicant has sought for the following reliefs:

“8.1 That, this Hon’ble Tribunal may kindly be pleased to call for entire record of the case, from the respondents.

8.2 That, this Hon’ble Tribunal may kindly be pleased to set aside/quash the impugned orders dated 27.06.2016 and 29.08.2016 Annexure A/1 (Colly) and further be pleased to direct the respondents authorities to consider for compassionate appointment of the applicant.

8.3 That any other relief/directions which the Hon’ble Tribunal deems fit and proper in the present facts and circumstances of the case including award of the costs of the application may be given”.

3. The applicant has submitted that his mother Smt. Milantin Bai, who was posted as a Khalasi in Engineering department at Raigarh, and bearing her Empl. PF/NPS No.07566426/ 07566426 under the South Eastern Railway, Bilaspur Zone, died in harness on 21.05.2015, leaving behind her a son (the applicant) and two daughters. One of the sisters of the applicant was residing with her mother, as after two years of her marriage her husband died. There is no other source of income and the entire family was dependent upon the deceased Smt. Milantin Bai. The applicant had preferred an application as well as an appeal for grant of compassionate appointment, however, vide impugned orders dated 27.06.2016 and 29.08.2016 (Annexure A-1 Colly.) the respondent-authorities have rejected the same.

4. On the other hand the respondents have submitted that the settlement dues of Rs.9,23,000 of deceased employee were equally distributed amongst her two daughters and son Suroti Lal (the applicant). After receiving the request of the applicant for employment assistance, one Divisional Personnel Officer was nominated to enquire into the matter, who submitted his report on 13.06.2016. Thereafter, the competent authority rejected vide order dated 27.06.2016 (Annexure A-1 colly.) the case on the grounds that there is no liability (as sisters got married long before), the applicant has agricultural land (2acres), house and bank balance apart from settlement dues. Subsequently, the applicant submitted an appeal on 03.08.2016. The competent authority once again regretted the case vide order dated 29.08.2016 (Annexure A-1 colly.) on the ground that no new facts have been brought to notice.

4.1 The respondents have denied that the sister of the applicant was dependent on him, as the applicant in his own statement has stated that she had taken her share from the settlement dues from the applicant. The settlement dues of Rs.9,23,000/- had been equally distributed amongst three children of the deceased. On enquiry, it was found that the applicant had 2 acres of agricultural land, 70x40 sq.ft. own house at Bhupdeopur, District Raigarh, one Byke and one scooter, and Rs.5,00,000 deposit at SBI/KHS in addition to settlement dues. The respondents have submitted

that with such a strong financial background, the applicant is not entitled for compassionate appointment.

5. In his rejoinder, the applicant has submitted that only Rs.10,138/- is available in his bank account. All the money is only the settlement dues of her late mother. The applicant is only possessing 50 decimal agricultural land at present, and the house in which he is residing is not a big house and the same was constructed by his parents. He has further submitted that his one of the sisters is living with him as her husband died in the year 1986.

6. Heard the learned counsel of parties and carefully perused the pleadings of the respective parties and the documents annexed therewith.

7. On the issue of compassionate appointment, in the matters of **Bhawani Prasad Sonkar Vs. Union of India**, (2011) 4 SCC 209 the Hon'ble Supreme Court held thus:

“(15). Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee’s family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognised as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme

or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve.

(16). We do not propose to burden this judgment with reference to a long line of decisions of this Court on the point. However, in order to recapitulate the factors to be taken into consideration while examining the claim for appointment on compassionate ground, we may refer to a few decisions.

(17). In *Umesh Kumar Nagpal v. State of Haryana*, (1994) 4 SCC 138 while emphasising that a compassionate appointment cannot be claimed as a matter of course or in posts above Classes III and IV, this Court had observed that: (SCC p. 140, para 2)

“2. ... The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. **What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.** The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and

affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

(18). Similarly, in *SAIL v. Madhusudan Das* (2008) 15 SCC 560 this Court has observed that: (SCC p. 566, para 15)

“15. This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefor viz. that the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependant of a deceased employee is an exception to the said rule. It is a concession, not a right.”

(See also *SBI v. Anju Jain* (2008) 8 SCC 475)

(19). In *V. Sivamurthy v. State of A.P.* (2008) 13 SCC 730 this Court while observing that although appointment in public service should be made strictly on the basis of open invitation of applications and comparative merit, having regard to Articles 14 and 16 of the Constitution, yet appointments on compassionate grounds are well-recognised exception to the general rule, carved out in the interest of justice to meet certain contingencies, highlighted the following two well-recognised contingencies as exceptions to the general rule: (SCC p. 741, para 18)

“(i) appointment on compassionate grounds to meet the sudden crisis occurring in a family on account of the death of the breadwinner while in service.

(ii) appointment on compassionate ground to meet the crisis in a family on account of medical invalidation of the breadwinner.”

(20). Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as

such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts.

(emphasis supplied by us)

8. In the instant case we find that the competent authority has duly considered the case of the applicant. It has clearly been stated in the impugned order dated 27.6.2016 (Annexure A-1 colly) that the compassionate appointment case of the applicant was put up to the competent authority (i.e. DRM/BSP) but, the same was not considered on the ground that “there are no family liabilities and dependents. Both the sisters i.e. daughters of the deceased employee were already married since long and the own sufficient property and bank balance apart from the settlement dues. Hence, not a fit case of compassionate appointment therefore application is rejected”.

9. Tested on the touchstone of the broad guidelines governing appointment on compassionate ground as laid down by the Hon'ble Supreme Court, and keeping in view the financial condition of the applicant as narrated in the body of this order, particularly the fact that the settlement dues of Rs.9,23,000/- had been equally distributed amongst three children of the deceased, and the applicant owns a house, agricultural land, etc. we are of the considered opinion that the respondents have not committed any illegality or irregularity while rejecting his request for compassionate appointment. Merely because one of the sisters is residing with him cannot be a ground to consider his case for compassionate appointment.

9. Accordingly, the Original Application is dismissed, however, without any order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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