

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

O.A. No.050/00712/2017

Date of Order: 25.09.2018

C O R A M
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER

1. Kusum Lal, resident of village-Gopnar, P.O.- Dandkhora, P.S.- Dandkhora, District- Katihar-854105.
2. Mithu Kumar Uraon, son of Kusum Lal, resident of village-Gopnar, P.O.- Dandkhora, P.S.- Dandkhora, District- Katihar-854105.

..... Applicants.

By Advocate : Shri S.Bariar

-Versus-

1. Union of India through the Chairman, Railway Board, New Delhi-110001.
2. The General Manager, North Frontier Railway, Maligaon, Assam-781012.
3. The Divisional Railway Manager, N.F. Railway, Ktihar-854105.
4. The Divisional Railway Manager (P) , N.F. Railway, Ktihar-854105.
5. The Station Manager, Kasba, N.F. Railway, Katihar Division, Katihar-854105.

..... Respondents.

- **By Advocate :-** Shri Sheojee Prasad

O R D E R (ORAL)

Jayesh Bhairavia, Member (J) :-

In the present case, the applicant has sought relief for issuance of a direction to the respondents to issue appointment order on compassionate ground in favour of applicant no.2 due to medically de-categorisation of his father i.e applicant no.1. To substantiate the claim, the I/c for applicant submitted that the applicant no.1

i.e Kusum Lal was critically ill and his treatment has been undergone in the Railway Hospital, Katihar from 29.08.2013 to 16.04.2015. He further submitted that the applicant was sent for further medical examination to the Central Hospital/Maligaon vide order dated 27.08.2014. (Annexure A/1). Since, the condition of applicant was not fit for the job thus the CMD, Central Hospital, Maligaon, had recommended for examination by the Medical Board vide letter dated 23th February 2015. The Medical Board was held on 23.03.2015 whereby the applicant no.1 was found unfit for further any railway services. The said decision of Medical Board was accepted by the CMD/Maligaon vide their letter dated 08.04.2014 and accordingly unfit certificate bearing no. 135 dated 15th April 2015 was issued in favour of the applicant. (Annexure A/2, A/3 and A/4 refer).

2. Thereafter, on 15.04.2015, the applicant had submitted a representation for appointment of his son i.e applicant no.2 herein on compassionate ground due to his medically de-categorization. (Annexure A/5 refers). L/c for applicant submitted that there is a policy for appointment on compassionate ground of wards/spouse of medically de-categorized staff of the railway as per railway circular dated 20.11.2006. He further submitted that as per the circular applicant no.2 is required to be considered for appointment on compassionate ground. It is further contended that the respondents had appointed one Guria Kumari, who is also a daughter of a de-categorized staff namely Ashok Paswan. However, the case of the

applicant has not been considered and deprived the applicant from his legitimate right to be considered for such appointment.

3. In response to the notice, the l/c for respondents have filed their written statement and denied the contention of the applicant. L/c for respondents submitted that, it is a fact that, the applicant no.1 i.e Kusum Lal was declared medically unfit vide decision taken by the Medical Board on 23.03.2015 and the same was approved by the CMD/Maligaon on 08.04.2015 and accordingly on 25th April 2015. The unfit certificate bearing no. 135 was issued. It is further contended that since the date of superannuation of applicant no. 1 was 30th April 2015 his services was not terminated on the ground of medically decategorisation and he was allowed to continue on supernumerary post till his retirement i.e 30.04.2015 as per the Railway Board letter no. 8/2000 and the order dated 27.05.2015. (Annexure R/1 refers). L/c for respondents further submitted that the case of the applicant was considered in accordance with existing policy and rules as applicable to the service record of applicant no.1 and denied the allegation of de-categorization.

4. It is further contended that the application of the applicant no.1 for appointment of one of the dependent family member on compassionate ground was received by the office of the respondents on 28.10.2016. His request was examined and it was found that he was declared unfit for further any railway services w.e.f 08.04.2015 vide letter dated 15.04.2015.

The applicant superannuated/retired from railway service from 30.04.2015. In the case of normal retirement/superannuation from railway service, the case of appointment of dependent family member of ex-railway employee is not considered. The competent authority had passed an order dated 05.01.2017 whereby his appeal/application was not found to be recommended. The said order/decision dated 05.01.2017 was communicated to the applicant no.1 (Anexure R/2) thereafter, the applicant is not entitled for any relief.

5. Heard the parties and perused the material available on records.

6. It is noticed that the applicant no.1 i.e Kusum Lal who was working as C/Man/TFC/KUB under the Station Manager, Kasba N.F. Railway Katihar Division, Katihar was declared unfit from all medically categorization and accordingly unfit certificate was issued. It is also not in dispute that after the applicant no.1 was declared unfit/decategorized on 15.04.2015 and since he retired on 30.04.2015, the respondents under the provision of RBE 8/2000 accorded sanction for creation of supernumerary post of P/Man A in PB-I (GP Rs.1900- for period from 17.04.2015 to 30.04.2015 for retention of Shri Kusum Lal and the said order was issued on 27th May 2015. (Annexure R/2 refers). Accordingly, the respondents had settled all the retiral dues of the applicant as he superannuated from service on attaining the age of superannuation. It is also noted that the appeal/representation submitted by the applicant no.1 for appointment on compassionate ground in favour of

any dependent due to his medically de-categorization. The said application was considered by the respondents and decision thereon was also communicated vide letter dated 05.01.2017 (Annexure R/2) to the applicant no.1. Since the respondents have retained the applicant in service by creating supernumerary post as per provision of RBE 8/2000 for the period from 17.04.2015 to 30.04.2015 and allowed him to retire on 30.04.2015 on superannuation, therefore it cannot be said that the applicant no.1 service was terminated due to medical de-categorization. Therefore I am of the considered opinion that there is no infirmity in the decision dated 05.01.2017 whereby the application/appeal of applicant no.1 for appointment on compassionate ground was not accepted as in the case of normal retirement on superannuation, the said request for CGA does not dome under the purview of CGA rule.

7. In view of the above, I find that there is no substance in the claim of the applicant; hence the O.A is dismissed. No costs.

(Jayesh V. Bhairavia)
Member (J)

mks