

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.021/0574/2018

Date of CAV:01.02.2019

Date of Pronouncement: 04.02.2019

Between:

1. K.B.Yadagiri, Aged 65 years
S/o Balaya, Ex.-Goods Guard, S.C.Railway,
H.No.3-6, Vill & P.O. Mirzapalli,
Mandal-china Shankarampet, District Medak, T.S.
2. K.B. Santhosh, aged 29 yrs.,
S/o K.B. Yadagiri, Ex.-Goods Guard, S.C.Railway,
H.No.3-6, Vill & P.O. Mirzapalli,
Mandal-china Shankarampet, District Medak, T.S.

... Applicants

And

UOI rep by its,

1. The General Manager
South Central Railway, Secunderabad.
2. The Chief Personnel Officer
4th Floor Rail Nilayam, S.C.Railway, Secunderabad.
3. The SR. Divisional Personnel Officer
Hyderabad Division, S.C. Railway, Secunderabad.

... Respondents

Counsel for the Applicant ... Mr.G.S.Rao.

Counsel for the Respondents ... Mr.S.M.Patnaik, SC for Rlsy

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The OA is filed for not considering the ward of Applicant No.1 for compassionate appointment.
3. The brief facts of the case are that Applicant No.1 joined the respondents' organization on 31.07.1974 and rose to the rank of Goods Guard. Applicant No.1 was suffering from diabetes and poor eye sight. He was undergoing treatment for

the ailments in Railway Dispensary as well as private hospitals. However, there being no improvement in his eye sight, Applicant No.1 approached L. V. Prasad Eye Institute in June 2002 for further treatment. As the Eye ailment deteriorated further, the applicant took a decision to retire voluntarily from the respondents' Organization. The respondents accepted the Voluntary retirement on medical grounds w.e.f. 08.10.2002. Thereafter, when his son, who is the 2nd Applicant in the case, became a major, Applicant No.1 represented to the respondents to consider his ward for compassionate appointment and the same was rejected on the ground that the wards of Railway employees, who retired voluntarily, are not eligible for appointment on compassionate grounds. The applicant made further representation to the General Manager, South Central Railway on 08.01.2017 stating that as per the Railway Board's Circular, wards of employees, who voluntarily retired from service due to medical de-categorization should be considered for compassionate appointment. As his request was not considered, OA 698/2017 was filed which was disposed of by this Tribunal by directing the respondents to dispose of his representation. The respondents once again considered and rejected his request vide letter dated 06.02.2018. Against this rejection, the present OA is filed.

4. The contentions of the applicant are that the Railway Board's letter dated 22.09.1995 clearly stipulates that a medically de-categorized employee need not wait for the Administration to identify an alternative job for him and that he can choose to retire and made a request for compassionate appointment for one of his family members. Further, the Railway Board's letter dated 18.01.2000 also states that if an employee is totally incapacitated, he is permitted to retire on medical grounds. Even in this case, the compassionate recruitment for the wards of the employee shall have to be considered. The applicant also quoted Railway Board's

letters dated 14.06.2006 and 30.04.1979, once again in support of his claim and submits that a medically de-categorized employee is eligible to seek compassionate recruitment for one of his eligible family members. Despite the above stated Railway Board's orders, the respondents are not considering his request, which is arbitrary.

5. The respondents in their reply have stated that the competent authority has accepted the voluntarily retirement sought by the applicant on 08.10.2002. The request of the applicant to provide compassionate recruitment to his son, who is the 2nd applicant in the case, was not accepted by the competent authority for the reason that the dependent of staff, who retire from service voluntarily, is not eligible for appointment on compassionate grounds. The Rule is that an employee, who is seeking voluntary retirement, needs to undergo medical examination from the Railway medical authority and the employee should be declared to have been totally disabled so as to deprive him of his earning capacity to consider his ward for compassionate appointment. The applicant has produced a medical certificate issued by a private organization. The medical certificate has to be scrutinized by Railway medical authority and thereafter a view has to be taken. The applicant did not follow this procedure, and therefore, his request for compassionate appointment could not be considered. The applicant also approached this Tribunal and based on the orders of the Tribunal, the request of the applicant was disposed of by citing the prescribed procedure indicated above.

6. Heard both the learned counsel - Shri G. Pavan Murthy, for Sri G. S. Rao, on behalf of the applicant and Shri S.M. Patnaik, learned Standing Counsel, on behalf of the respondents.

7. It is not a disputed fact that the applicant was suffering from diabetes and also eye sight ailments and as the condition of his eye deteriorated, he took a decision to take voluntary retirement. Based on his request, the respondents accepted the voluntary retirement sought by Applicant No.1. The applicant No.1 did make request for compassionate appointment of his son on medical invalidation, when the latter became major. The rules for compassionate appointment clearly laid down that only when the employee gets medically invalidated, then he is allowed as per rules to seek compassionate appointment. The Railway Board orders cited by the applicant do also specify that only on medical invalidation an employee can seek compassionate recruitment for a family member. The authorities, who can medically invalidate the applicant are the Railway medical authorities. However, in case where the applicant has taken treatment in private hospitals, it is necessary that the same has to be subjected to the Railway medical authorities for scrutiny and certification of its validity. The applicant failed to follow this procedure prescribed. Hence, the respondents have rejected his request. Any employee, who seeks a benefit from an organization, has to follow the rules of the organization. By not following the same and seeking benefit of compassionate recruitment, would be in violation of Rules. In case the request of the applicant has to be considered, then it tantamounts to doing injustice to all those employees, who after knowing the rule, did not apply for similar benefit. Hence, on the grounds stated above, there is no merit in the case. The OA has to be necessarily dismissed. Accordingly, the same is dismissed with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 4th day of February, 2019

/nsnr/evr