

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 102 of 2018

This the 8th day of February, 2019

Hon'ble Ms. Jasmine Ahmed, Member-J

Kusuma Devi, W/o Sri Shiv Kumar (missed) aged about 41 years, R/o Hulla Pur Post Satwa Khera, Police Station Sareni District Raebareli. U.P.

Applicant

By Advocate : Sri R.K. Srivastava

Versus.

1. Union of India through the Secretary, Ministry of Railways, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, Delhi Division, New Delhi.
4. Divisional Personnel Officer, Northern Railway, Delhi Division, New Delhi.

Respondents.

By Advocate : Sri Mithilesh Kumar

O R D E R (Oral)

Heard the learned counsel for the applicant as well as the learned counsel for the respondents and perused the pleadings available on record.

2. It is the contention of the learned counsel for the applicant that the request of the applicant for compassionate appointment was made to the respondents in favour of her daughter namely Neetu in the year 2015. Learned counsel for the applicant also contends that on the basis of request of the applicant for appointment on compassionate ground in favour of her daughter, the respondents have done several correspondence and every time the applicant was required to submit certain documents, which she submitted from time to time. Learned counsel for the applicant also states that despite service of the relevant documents as asked for, the respondents vide order dated 5.12.2017

have rejected the claim of the applicant's daughter by stating therein that "the matter regarding appointment in IS PB without GP who does not possess the minimum qualification is under correspondence with the Railway Board. Unless clarification is received, no fresh appointment as per erstwhile IS terms and conditions can take place. As your daughter is only 8th pass, her case cannot be considered at this stage. In view of the above, it is, therefore, advised to apply for CGA of your daughter once she fulfills the minimum educational qualification as in terms of Railway Board above instructions or wait till clarification is received regarding appointment in IS PB is received from Railway Board."

3. The counsel for the respondents was directed on previous date (8.1.2019) to seek instructions on this point. Today, he has handed over a copy of the letter dated 18.12.2017(RBE No. 195/2017) wherein the minimum educational qualification for appointment in Level -1 of the Pay Matrix of 7th Pay Commission on compassionate grounds has been prescribed. It is seen in the letter dated 18.12.2017 that the appointment on compassionate ground also comes under direct recruitment quota, hence the educational qualification meant for direct recruitment quota is also to be applicable in the case of compassionate appointment as well. The learned counsel for the applicant argues that the circular RBE No. 195/2017 dated 18.12.2017 is applicable from prospective date and not from retrospective effect. He also argues that the case of the applicant is being considered prior to issuance of the RBE No. 195/2017 dated 18.12.2017 and as such the said RBE No. 195/2017 is not at all applicable in the case of the applicant. Circular dated 18.12.2017 submitted by the respondents is taken on record.

4. I have heard the learned counsel for the parties and have also perused the pleadings available on record as well as the circular having RBE No. 195 of 2017 issued by the Railway Board.

5. It is settled proposition of law that any order or circular is having prospective effect and not the retrospective effect unless it is specifically mentioned. It is also not in dispute that the case of the applicant for appointment on compassionate ground in favour of her daughter is pending before issuance of the aforementioned circular and the same is being considered much before issuance of the circular dated 18.12.2017. Hence, the case of the applicant cannot be said to have been considered

pursuant to circular dated 18.12.2017 and his case should have been considered pursuant to erstwhile circular of the respondents prevailing at the relevant point of time.

6. In view of the above, the O.A. succeeds. Order dated 5.12.2017 is quashed. The respondents are directed to consider the case of the applicant's daughter afresh ignoring the circular dated 18.12.2017 issued by the Railway Board within a period of two months from the date of receipt of copy of this order under intimation to the applicant. There shall be no order as to costs.

(Ms. Jasmine Ahmed)
Member-J

Girish/-