

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1441/2018

New Delhi this the 16th day of January, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)

Firoz Khan @ Firoz @ Feroj,
S/o Late Mr. Raees Khan @ Rais Khan @ Rahees Mian,
H.No.54- A-6, Chhoti Mor Sarai,
Railway Colony, Delhi -110006 Applicant

(By Advocate : Sh. Gaya Prasad)

Versus

- 1 Union of India, through
 General Manager,
 Northern Railway,
 Baroda House, New Delhi.
2. Divisional Railway Manager,
 Northern Railway, DRM Office,
 State Entry Road, New Delhi.
3. Divisional Personnel Officer
 Northern Railway, DRM Office
 State Entry Road, New Delhi.
4. Principal,
 Govt. Boys Senior Secondary School,
 Zeenat Mahal, Kamla Market,
 New Delhi. Respondents

(By Advocate : Sh. S.M. Arif)

ORDER (ORAL)

The instant application has been filed by the applicant seeking appointment on compassionate grounds in the respondents' department. The applicant's mother was serving as a Group 'D' employee at Delhi Jn. Railway Station, who unfortunately died on

15.03.2012. After her death, her husband filed an application in the year 2012 for grant of compassionate ground appointment to their son who is the applicant in the instant case. This was considered by the respondents and it was advised on 11.03.2013 that on verification the Educational Qualification Certificate submitted for class 8th, was found to be bogus and accordingly, the competent authority had rejected the request for grant of appointment on compassionate grounds. The father of the applicant had also unfortunately died in the year 2015.

2. Thereafter, the applicant made a representation dated 18.04.2016 seeking re-consideration of compassionate ground appointment. Following plea was made :-

"It is, therefore, again requested to consider the case of the undersigned dispassionately and appoint me on compassionate ground in place of my deceased mother in group "D" as per his qualification to meet his financial needs, by re-verification of School Leaving Certificate from the School. In this regard, I had submitted so many representations for appointment on C.G. ground but no action has been taken by the Railway."

This representation was rejected on the ground of bogus certificate which was the initial cause of rejection.

3. Thereafter, he had made several other representations also, one being of 3rd August, 2017 wherein the following averments have been made :-

"I want to request you that my certificate could not be linked by school authority. I have approached to school authority. Now documented related certificate is available in school, Jeenat Mahal School, Kamla Market, New Delhi-110002

(copy enclosed). There is provision in the rule to re-verification of school certificate."

4. The matter was considered by the respondents and it was again advised on 01st June, 2017 that initial 8th class certificate was found to be bogus and, accordingly the application was rejected. The applicant had submitted School Leaving Certificate issued on 3.12.2012 by a school at Kamla Market, New Delhi which indicates that he had entered this School on 1.2.1992 and left on 31.3.93 and that he has passed 8th class on 31.3.93.

5. The respondents brought out that the initial application submitted by the applicant's father in the year 2012 (para 1 supra) indicated that he has passed 8th class from Indra English Junior High School, Kangi Tola, Bareilly (UP) which on verification was found bogus and the request for compassionate ground appointment was rejected and applicant was advised on 11.3.2013.

6. Further, the applicant has now submitted that he passed class 8th from a different school, i.e. at Delhi. The applicant pleaded that there appears to be malafide intention on the part of the respondents in rejecting his request in 2013 and not considering his case now.

7. The case was presented by Sh. Gaya Prasad, learned counsel for the applicant and Sh. S M Arif, learned counsel, on behalf of the respondents. The matter has been heard at length

8. The applicant was 34 years of age when his mother died and he is 40 years by now and reported to be married already. Compassionate ground appointment is a scheme which is in place to take care of immediate family needs when bread earner dies in harness and the family is left in penury. It is not a vested right but a consideration which is to be extended by the respondents.

In the instant case, the request for compassionate ground appointment was rejected in 2013, since the qualification certificate submitted was found to be bogus during the verification. The allegation in respect of the malafide intention, on the part of the respondents, in rejecting the request, is not acceptable in view of reasons which were advised on 11.3.2013 itself and which were not even controverted in the next representation by applicant Dt. 18.4.2016 wherein applicant requested for re-verification only (para 2 supra). Further, there was three year delay in filing this representation after initial application was rejected. A needy candidate, whose papers would have been in order otherwise, would not have waited this long to make representation.

9. It is further noted that school pass certificate was submitted by his father and the rejection was advised vide letter Dt. 11.3.2013. However, the applicant had not filed any representation at that time and the next representation was submitted after three years and only after the death of applicant's father. This appears to be an attempt to delink any taint of submission of incorrect qualification certificate

along with the previous application which was from a school located in Bareilly in U.P. This appears to be so, especially because the new school leaving certificate for the same class 8th, has now been submitted from a school located in Delhi. This is very strange to say the least. Instead this is more like a fraud being played by applicant.

10. The representation of the applicant, after rejection on 11.3.2013, was filed on 18.4.2016 (para 2 supra). This is therefore time barred and moreover it is silent about the crucial aspect of the bogus qualification certificate. Even during the course of the hearing of instant case, the 8th class mark sheet has not been submitted. It is only a School Leaving Certificate which has been attached (para 4 supra). On being questioned, the applicant's counsel plead that mark sheet and school leaving certificate are one and the same thing. This contention cannot be agreed to even to start with.

11. In view of foregoing, the present OA is treated as time barred and hence not maintainable. Moreover, applicant's case for compassionate appointment was considered by respondent and rejected. Applicant is 40 years of age by now and has been able to sustain himself for all these years after the death of his mother in 2012. Even on merit, there are no grounds for compassionate ground appointment at this stage. There is nothing left in this OA and the same is dismissed being devoid of merit. No order as to costs.

(Pradeep Kumar)
Member (A)

