

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

Original Application No.402/2019

Dated this 03rd day of December, 2019.

CORAM:

Hon'ble SH.M.C.Verma, Member (J)

1. Shri Bhupatsingh J.,
S/o. Jamubha,
Aged 63 years,
Retired as Cabinman -1 under SS-SDD
R/O.:Parasar Park-I, Block No.7,
Jamnagar road, Rajkot – 360 006.Applicant

By Advocate Ms.S.S.Chaturvedi

Vs.

- i) Union of India,
Notice to be served through
Chairman,
Railway Board,
Rail Bhavan, New Delhi – 110 001.
- ii) General Manager, Western Railway,
Churchgate, Mumbai – 400 020.
- iii) The Divisional Railway Manager (E),
Rajkot Division, Kothi Compound,
Rajkot – 360 001. ...Respondents

O R D E R (Oral)**Per: M.C.Verma, Member (Judicial)**

1. The OA is at motion hearing stage. Applicant is ex-employee of respondents and being aggrieved by non-grant of compassionate appointment to his son he has preferred instant OA.
2. Learned counsel Ms.S.S.Chaturvedi pressing the OA submits that applicant when was serving the respondents on the post of Cabin man was medically de-categorized in *Aye one category* and he was offered alternative job of 'Mason'. That applicant applied for voluntary retirement on 16.01.2014 and he was given VRS with effect from 13.03.2014. She submits that applicant requests the respondents to appoint his son on compassionate grounds but his request was turned down whereas similarly situated employees viz., Shri Naran Devji's ward has been given compassionate appointment. Learned counsel also submits that as per OM.No.E(NG)II/95/RC-1/94 dated 14.06.2006 ward of medically de-categorized employee who has sought voluntary retirement may be given compassionate appointment. She also submits that respondents has discriminated the applicant.
3. Considered the submissions. Impugned order dated 14.11.2018 (Annexure A1), for sake of brevity is reproduced herein below :-

*"Headquarter Office,
Churchgate,
Mumbai – 400 020.*

E(R&T)890/60/1/RJT(2018)

Dtd.14/11/2018.

*Shri B.J.Jadeja,
Vora Society,
Jamnagar Road,
Parasar Park -1,
Rajkot – 360 001.*

*Sub: Employment on compassionate grounds – Case of Shri B.J.
Jadeja, ex-Cabinman II, RJT*

*Ref: Your Email dated 25/08/2018 received under Shri Sudhir
Jambawadekar, Assistant Police Commissioner (GRP)'s
letter dated 19/10/2018*

It is observed that you were medically decategorised at the age of 57 years but found fit in same medical category i.e. Aye-two & below and was on job conversion training for the post of Painter – III. After accepting the job of Painter, you applied for voluntary retirement which was accepted on 13/03/2014. As such, compassionate appointment is not permissible as per extant rules.

You have compared your case with case of Shri Naran Devji ex-Waterman under SM-SUNR who was declared medically invalidated in all categories by Medical Board comprising of three Doctors and findings/recommendations drawn were approved by PCMD-CCG. Compassionate appointment to the dependents of medically invalidated employee is permissible in case as per Para 3 of Railway Board's letter No.E(NG)II/95/RC-1/94 dt. 18/1/2000 (RBENo.8/2000) circulated vide PS No.17/2000.

In this regard, you have already been replied vide this office letter of even no. dated 17/09/2008 (copy enclosed).

*(N.M.Kamath)
SPO(R&T)
For General Manager(E)*

*C/-Shri Sudhir Jambawadekar, Assistant Police Commissioner (GRP),
Western Railway, Bandra, Andheri Office, Mumbai w.r.t letter no.
Application/18/8129/2018 dated 19/10/2018
c/-Dy.CPO(HRD)
C/-Email:bjjadeja1956@gmail.com."*

4. OM dated 14.06.2006 (Annexure A16), relied upon by learned counsel for applicant provides that compassionate appointment can only be given in case of employee who was partially de-categorized at the time when he has at least five years or more service. Para 4 of the OM, relevant for that purpose, stipulates as under:-

"4. Pursuant to the demand raised by staff side the issue has been deliberated upon at length in the full Board Meeting and it has been decided that compassionate ground appointment to the wife/wards/dependants of partially medically de-categorised staff who seeks voluntary retirement may be given subject to the following provisions:-

- (a) *The appointment will be given only in the eligible Group 'D' categories. 'Eligible' would mean that in case Group "D" recruitment is banned for any particular category, the same would also apply for the compassionate ground appointments.*
- (b) *Such an appointment should only be given in case of employees who are declared partially decategorised at a time when they have atleast 5 years or more service left.*
- (c) *CMD of the Railways should keep a watch over the trend of de-categorisation so that the present figure do not get inflated. CMD should also get 10% partially decategorised cases re-examined by another medical Board not belonging to Divisional Hospital which initially declared them unfit."*

5. Learned counsel upon query submits that at the time of VRS, applicant was 57 years of age and has not five year service left at that time. As far

as discrimination qua case of Shri Narran Devji, ex-Waterman, as has been pleaded and argued, relates, impugned order itself reflects Shri Naran Devji was declared medically invalidated in all categories by Medical Board and Compassionate appointment to the dependents of medically invalidated employee is permissible as per Railway Board's letter No.E(NG)II/95/RC-1/94 dt. 18/1/2000 (RBENo.8/2000) whereas, the case of applicant is not of medically invalidated in all categories but he was partially medically de-categorized and was also offered alternative appointment also. Taking note of entirety, I do not find any merits in the OA and hence OA is dismissed at motion hearing stage itself.

**(M.C. VERMA)
MEMBER (J)**

SKV