

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CWP No.6752 of 2014(O&M)**

DATE OF DECISION: SEPTEMBER 3, 2015

RATTAN CHAND

...PETITIONER

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.  
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest?

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PRESENT: MR. A.S.AHLUWALIA, ADVOCATE FOR THE PETITIONER.  
MR. RAJIV SHARMA, ADVOCATE FOR THE RESPONDENTS.

**M. JEYAPPAUL, J.**

**CM-11136-2015**

1. The application is allowed for the reasons set out in the application and permission is granted to place on record Annexures P-19 and P-20.

**Main Case**

2. The writ petitioner Rattan Chand challenges the order of dismissal passed by learned Central Administrative Tribunal, Chandigarh Bench (for short 'Tribunal') upholding the rejection of his plea for appointment of his son on compassionate grounds.

3. The writ petitioner Rattan Chand who was serving as Fitter-III with respondent No.4 was subjected to examination by a Medical Committee constituted by the Medical Superintendent, Northern Railways, Ambala Cantt. The Medical Committee declared the writ petitioner unfit to

perform his duties as Fitter-III. But the writ petitioner was found fit in Medical Category B-I or below with glasses where brisk walking, running and squatting were not required. The question of his absorption in alternative post was to be considered by his Department Incharge, the Medical Board further observed.

4. Beforever the offer for an alternative appointment was made by the Department, the writ petitioner submitted his application for voluntary retirement which was accepted by respondent No.4 and as a result of which he retired voluntarily w.e.f. 31.12.2001.

5. Pleading that he was medically unfit to hold the post of Fitter-III by the Medical Committee, the writ petitioner sought for appointment of his son on compassionate ground.

6. The respondents rejected the plea of the writ petitioner on the ground that he had voluntarily retired from Railway Service despite the fact that he was fit to occupy the lower medical category post.

7. We heard the elaborate submissions made by learned counsel appearing on either side.

8. The Instructions regarding appointment on compassionate grounds issued by the respondents on 7.4.1983 categorically declare that a compassionate appointment can be made, in a case where an employee became crippled while in service and was medically decategorized for the job he was holding and no alternative job of the same emoluments could be offered to him by the Railways.

9. In the instant case, the Medical Board, of course, declared that

the writ petitioner was medically unfit to hold the post of Fitter, but the Medical Board found that he was fit in Medical Category-B or below with glasses where brisk walking, running or squatting was not required. In fact, he had been advised to wait for the consideration of giving him an alternative post by the Department, as he was found unfit to hold the post of Fitter permanently.

10. It is not a case where the respondents sent the writ petitioner out on the medical ground or the respondents persuaded him to opt for voluntary retirement.

11. Inasmuch as the Instructions issued by the respondents on compassionate appointment categorically declare that compassionate appointment would be considered only in a case of an employee who had not only been found medically unfit to hold the post he was holding and was medically decategorized, but also was not offered with an alternative job on the same emoluments by the Department.

12. Under the above facts and circumstances, we are of the considered view that the respondents have rightly taken a decision that the writ petitioner who had gone on voluntary retirement without waiting for the alternative post that would have been offered by the respondents, as observed by the Medical Committee, was not entitled to seek any post for his son on compassionate ground.

13. Further, the above Instructions regarding appointment on compassionate grounds issued by the respondents on 7.4.1983 prescribe a period of 5 year limitation for seeking an appointment on compassionate

ground. In the instant case, the writ petitioner had voluntarily retired from service on 31.12.2001, but he had submitted an application only in the year 2007 seeking compassionate appointment for his son. The claim of the writ petitioner is also found to be time barred.

14. We find that there is no merit in the writ petition and therefore, the writ petition stands dismissed.

**(M. JEYAPPAUL)**  
**JUDGE**

September 3, 2015  
Gulati

**(DARSHAN SINGH)**  
**JUDGE**