

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1277 of 2015

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Dukha Roy, son of late Rameshray Roy, resident of village - Balutola, P.S. -
Manihari, District - Katihar.

.... Petitioner

Versus

1. The Union of India through the Chairman, Ministry of Railway, Railway Bhawan, Government of India, New Delhi.
2. The DRM (P), N.F. Railway, Katihar.
3. The General Manager, N.F. Railway , Maligaon, Guwahati.
4. The Senior Divisional Personnel Officer, Katihar, N.F. Railway, Katihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajiv Krishna Bariar, Advocate.

For the Respondents : Mr. Anil Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 02-05-2016

Heard learned counsel for the parties.

2. The order dated 26th of February, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as “the Tribunal”) in O.A. No. 639 of 2012 is subject matter of challenge in the present writ application. Vide the aforesaid order, the claim of the petitioner for appointment on compassionate

grounds was found to be without any merit.

3. The petitioner claims that his father Ramashray Roy, an employee of N.F. Railway, died in harness on 23rd of August, 1989. Earlier his mother was directed to obtain Succession Certificate in respect of payment of retiral benefits which certificate was granted on 27th of January, 2004.

4. The assertion of the petitioner is that her mother applied for appointment of the petitioner on compassionate grounds on 6th of September, 1994. The Tribunal found that such letter is false inasmuch as there is a mention of Succession Certificate granted on 27th of January, 2004. In respect of the claim of the petitioner for appointment on compassionate grounds, the petitioner was called upon to submit authentic proof that he is the son of ex employee late Ramashray Roy, as in Succession Certificate Sri Dukha Roy is the respondent. The mother of the petitioner was also called upon to explain the cause of delay in submission of application for compassionate appointment.

5. It is thereafter, the petitioner filed O.A. No. 154 of 2010 before the Tribunal. Such Original Application was decided on 2nd of July, 2011 when a direction was issued to the respondents to consider the Original Application as a representation and to take a decision after consideration of the submissions made in the Original



Application and the annexures appended thereto. It is thereafter, the impugned order dated 20th of October, 2011 was passed wherein, it is, *inter alia*, mentioned that petitioner is not mentioned as the son of the deceased during the entire service period of the ex employee. It is also found that the petitioner applied for compassionate appointment in the year 2007 i.e. after 18 years of the date of death and that no reason has been cited for condonation of such a long delay.

6. The learned Tribunal relied upon the case reported as ***Umesh Kumar Nagpal Vs. State of Haryana (1994) 4 SCC 138*** to hold that consideration of compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate appointment cannot be claimed and offered after the lapse of time and after the crisis is over.

7. A perusal of the order passed by the Tribunal shows that the petitioner has applied for appointment on compassionate grounds in the year 2007. Earlier, the mother of the petitioner applied for payment of retiral benefits. The appointment on compassionate grounds is to be given to provide immediate financial assistance on account of sudden demise of the bread winner. It is not a regular process of appointment and cannot be claimed after 18 years.

8. The Supreme Court in ***Local Admn. Deptt. v. M. Selvanayagam, (2011) 13 SCC 42*** has also held that the appointment

on compassionate grounds should be sought soon after the loss of bread winner and not after the attaining of majority of the dependent member. The Court held as follows:-

“11. It has been said a number of times earlier but it needs to be recalled here that under the scheme of compassionate appointment, in case of an employee dying in harness one of his eligible dependants is given a job with the sole objective to provide immediate succour to the family which may suddenly find itself in dire straits as a result of the death of the breadwinner. An appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependants and the financial deprivation caused to the dependants as a result of his death, simply because the claimant happened to be one of the dependants of the deceased employee would be directly in conflict with Articles 14 and 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind.

12. Ideally, the appointment on compassionate basis should be made without any loss of time but having regard to the delays in the administrative process and several other relevant factors such as the number of already pending claims under the scheme and availability of vacancies, etc. normally the appointment may come after several months or even after two to three years. It is not our intent, nor it is possible to lay down a rigid time-limit within which appointment on compassionate grounds must be made but what needs to be emphasised is that such an appointment must have some bearing on the object of the scheme.”

9. In view thereof, we do not find any merit in the present writ application. The same is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.
N.A.F.R.

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