

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10017 of 2016

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Jitendra Kumar, Son of Late Ramesh Prasad, resident of village - Bochachak, P.O.
& P.S. Phulwarisharif, Town & District – Patna.

.... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway at Hajipur.
2. The General Manager, East Central Railway at Hajipur.
3. The Divisional Railway Manager, East Central Railway at Danapur.
4. The Divisional Personnel Officer, East Central Railway at Danapur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhav Krishna, Advocate.

For the Respondent/s : Mr. Devendra Kumar Sinha, Sr. Advocate.

Mr. Dr. Anand Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)
Date: 24-08-2016

Heard learned counsel for the parties.

2. The writ petition is directed against the order dated 24th February, 2016 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the ‘Tribunal’) by which O.A. No. 358 of 2011 filed by the petitioner has been dismissed.



3. The petitioner is son of late Ramesh Prasad, who was a Railway employee having died in harness on 30.08.2006 while working as a Shunter at Patna Railway Station. Late Ramesh Prasad having left behind his wife, three sons and four daughters, the widow i.e., the mother of the petitioner, filed representation for payment of retiral benefits and compassionate appointment to the petitioner, who was the eldest son. A complaint having been filed before the authorities disputing the identity of the late father of the petitioner, payment of retiral benefits and also compassionate appointment was refused by the authorities due to which the petitioner's mother filed O.A. No. 201 of 2007 before the Tribunal claiming compassionate appointment for the petitioner and payment of terminal benefits including family pension. She withdrew her prayer for compassionate appointment and pressed only for retiral benefits. The Tribunal by order dated 13.04.2007 directed the Divisional Rail Manager, East Central Railway, Danapur to look into the matter and pass a speaking order in accordance with law. The order dated 18.04.2011 passed by the authority concerned, pursuant to such earlier direction by the Tribunal, was challenged before the Tribunal by the petitioner in O.A. No. 358 of 2011 and dismissal of the same by order dated 24th February, 2016 has given rise to the present writ petition.

4. Learned counsel for the petitioner submitted that the



order dated 18.04.2011 is a cryptic order only stating that the claim of the petitioner had been rejected upon consideration, without disclosing any reason for the same. It was contended that the basis of such rejection, being the finding in the enquiry conducted by the Welfare Inspector dated 09.07.2010, was not served either on the petitioner or his mother.

5. Learned counsel for the respondents submitted that the order of the Tribunal is quite elaborate and has taken note of all the issues raised on behalf of the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, we do not find any merit in the present writ petition. Perusal of the order of the Tribunal clearly indicates that during enquiry it has come to light that the deceased employee was not Ramesh Prasad and that his real name was Chhote Lal i.e., the elder brother of Ramesh Prasad. It was also found that Chhote Lal, who is the elder brother of Ramesh Prasad, is still alive and working in Gangotri Iron Factory, Bocha Chak and his name also figures in the voter list. Moreover, the so called father of the petitioner having died on 30.08.2006 and the petitioner having attained the age of majority in the year 2005 itself, application was required to be made within three years of attaining majority, which admittedly has not been done. The report of the authority noted in the impugned order dated 24.02.2016 also



reflects many acts of omission and commission on the part of the deceased employee, which is easily attributable either to the deceased person or to the present petitioner. In view of there being a finding by the authority of the Railways which creates a genuine doubt with regard to the working of the late employee himself, is a valid ground for the authority to refuse appointment on compassionate ground as the very appointment of the original employee seems to be based on fraud. Another aspect which the Tribunal has taken note of is that in O.A. No. 201 of 2007, one of the reliefs sought being appointment of the petitioner on compassionate ground and such relief having been given up, it cannot be agitated in the second round of litigation. We also find that the order impugned is well discussed and the conclusions drawn cannot be said to be unfounded or erroneous. Compassionate appointment being an exception to the general rule for employment and having been made without complying with the Constitutional provisions relating to appointment is for the purpose of taking care of the family under compelling circumstances and has to be made within a reasonable period. In the present case, the family having got over the crucial period, now, after passage of more than a decade, cannot claim appointment on compassionate ground as a matter of right. Moreover, nothing having been brought on record to show that the petitioner is the son of the deceased who was an

employee under the Railways, we do not find any error in the conduct of the authorities in refusing to appoint the petitioner on compassionate ground.

7. Accordingly, the writ petition, stands dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

P. Kumar

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