

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (S) No. 2084 of 2017

Baijnath Kumar

.....Petitioner.

Vs.

1. The Union of India through the
Secretary, Ministry of Railways, New Delhi
2. The Divisional Railway Manger, East Central
Railways, Dhanbad
3. The Senior Divisional Personnel, East Central
Railways, Dhanbad

..... Respondents.

CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH
HON'BLE MR. JUSTICE B.B.MANGALMURTI

For the Petitioner	: M/s. A. K. Das, Chandrajit Mukherjee, Advs.
For the Respondent	
-Railways	: Mr. Gautam Rakesh, Adv.

06/29.8.2017

Heard learned counsel for the parties.

Petitioner is the applicant in O.A. No. 050/00318/of 2015, who has preferred the writ petition being aggrieved by the order dated 28th April, 2015 passed by learned Central Administrative Tribunal, Patna Bench at Ranchi (Annexure-6), whereby the claim for compassionate appointment in lieu of death of his younger brother, namely, Santosh Kumar, Ex- Trackman/(P.Way) PNME has been rejected.

The relevant material facts as available on record show that younger brother of the petitioner, Late Santosh Kumar was appointed on 6th May, 2013 as Ex-Trackman/SSE(P.Way)/PNME under East Central Railways, Dhanbad, but he expired 9 months thereafter as a bachelor on 17th February, 2014. He had also taken pass for self only and no other members of the family. As per Rules applicable in the Respondent-Organization, cases of dependents of Railway employees dying as bachelors/spinsters for appointment on compassionate grounds may be considered subject to the condition that the candidate proposed for appointment is shown as dependent of the ex-employee as per the Pass Rules.

In the instant case, it is not in dispute that father of the petitioner is still alive. The employee was, in fact, the younger brother of the petitioner. The employment was only for 9 months. Taking into

account all these factors, the respondents had rejected the plea of compassionate appointment vide order dated 13th October, 2014 (Annexure-5). Though the same was stated to be on record in the original application but was inadvertently not challenged before learned C.A.T. Learned C.A.T considered the plea of the petitioner and also took into account the relevant material facts that not only was the father of the applicant alive but the younger brother of the deceased employee had worked only for nine months. Therefore, the applicant could not be treated as dependent of the deceased employee.

Learned counsel for the petitioner has submitted that simply on account of the fact that the father of the applicant was alive, who is aged 50 years as per family member certificate issued by the Circle Officer, Roh (Annexure-2) dated 24th February, 2014, respondents were not right in drawing inference that the applicant, who is aged 33 years could not be dependent of his younger brother, namely, Late Santosh Kumar. The family had become dependent upon the deceased employee on account of his employment and any of his dependent, who is otherwise eligible, was entitled for being appointed on compassionate ground. These material considerations have however been overlooked by learned Tribunal. Therefore, the impugned order deserves interference.

Learned counsel for the Railways has supported the stand of the respondents as contained in the order dated 13th October, 2014 and the impugned order passed by learned C.A.T. According to learned counsel for Railways, the applicant in the aforesaid facts and circumstances could not have been treated as dependent of the deceased employee. The scheme of compassionate appointment cannot be turned into such a mode of recruitment, as the relevant facts have to be considered on its entirety to come to a conclusion whether the applicant seeking appointment on compassionate ground was really dependent upon the deceased employee or not. Therefore, he has opposed the prayer.

We have given considerable thought to the plea raised by the petitioner in the light of relevant material facts and circumstances

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discussed hereinabove. We do not find any error in the impugned order either. The learned Tribunal has also considered the relevant facts in its entirety and rightly came to a conclusion that the applicant could not be treated as dependent of the deceased employee, who was his younger brother and had been employed only for a period of 9 months, more so when the father is alive.

We, therefore, do not find any merit in this application, it is accordingly dismissed.

(Aparesh Kumar Singh,J)

(B.B.Mangalmurti,J)