

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9797 OF 2025

Atish Narayan Rase

... Petitioner

Versus

Union of India & Ors.

... Respondents

.....

Mr. Bhooshan R. Mandlik for the Petitioner.

Mr. T. J. Pandian a/w. Ms. Prajakta Joshi, Ms. Noorjahan Khan and Mr. Gautam Modanwal for the Respondents.

CORAM : M. S. KARNIK AND
N. R. BORKAR, JJ.
DATED : 05th AUGUST, 2025.

P.C. :

1. Heard learned counsel for the petitioner. The petitioner employee challenges the order passed by the Central Administrative Tribunal (the Tribunal for short) dismissing the Original Application (OA for short). The OA was filed to consider the claim of the applicant for appointment on compassionate grounds.

2. The petitioner's brother was working with the Indian Railways as Pointsman. The petitioner's brother died on 04.10.2012. At the relevant time, the petitioner's father was alive. The petitioner made an application for appointment on compassionate grounds in place of his brother. The said application came to be rejected pursuant to the report of the Welfare Inspector, who was deputed to inquire into the circumstance regarding the

extent of the dependency in view of the Ministry of Railways (Railway Board) Circular dated 08.07.2014. The relevant portion of the circular reads thus:

“However, the dependent of an unmarried male/unmarried female Railway employee dying in harness/retiring on medical grounds, may be considered for compassionate appointment by the Railway at its own level, subject to the condition that the candidate proposed for appointment is shown as dependent on the ex-employee on the basis of documents such as inclusion/declaration of names in the pass or in Ration cards etc. The condition of inclusion in the pass declaration or Ration cards etc. is only a facilitating factor, and not intended to be a restrictive one. In the absence of any such documentary proof, the factual position regarding the extent of the dependency may be got verified by deputing a Welfare Inspector to inquire into the circumstances. The relaxation of time limit permissible in the case of minor children of those employees who die in harness would also apply in the case of dependents of those who die as bachelor/spinster.”

3. The Tribunal proceeded on the footing that the petitioner cannot be regarded as dependent as his name was not included in the pass declaration. The Tribunal has observed that the petitioner's name not being a part of the pass declaration is a factor which goes against the petitioner. The second reason why the Tribunal decided against the petitioner is because of the report of the Welfare Inspector. The Tribunal observed that no proof is adduced before the Welfare Inspector to show that during the lifetime of petitioner's brother that the petitioner was dependent on him.

4. In our opinion, the fact that the petitioner's name was not included in the pass declaration is hardly of any relevance. This is only a

facilitating factor and not intended to be restrictive one. It is the contention of the learned counsel for the petitioner that the petitioner's name was included in the pass declaration which according to the learned counsel for the respondents was wrongly included as the petitioner at the relevant time had crossed 21 years of age and hence not eligible in terms of the circular.

5. The Tribunal has, thus, rejected the OA taking into account two of the aforesaid factors. It is pertinent to note that the Welfare Inspector's report has recorded that the case of the petitioner is a priority one and the economic condition of the family is bad. No doubt, the Welfare Inspector has recorded that the dependency of the petitioner on the deceased brother is not proved as no documents regarding proof of dependency is available in this case.

6. In our opinion, even in the absence of the pass declaration or the Welfare Inspector's report, the claim for compassionate appointment has to be considered on the basis of the materials available on record and the aforesaid factors cannot be the sole basis for rejecting the OA. The impugned order is, therefore, set aside. The OA is remanded back to the Tribunal for deciding the same afresh on its own merits and in accordance with law on the basis of the pleadings and materials on record.

7. All contentions including the contention of the respondents that the claim of the petitioner is highly belated are kept open. We are not expressing any opinion in this respect.

8. Parties to appear before the Tribunal on **01.09.2025** along with copy of this order.
9. The writ petition is disposed of.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)