



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO.91 OF 2024**

Bhagwan Champat Tamgadge, aged 64 years, Occ. Retired, r/o Sawangi Meghe, Samta Nagar, Wardha, Tq. & Dist. Wardha, through Power of Attorney Holder Akash Bhagwanna Tamgadge aged about 29 years, Occupation : Agriculturist, R/o Sawangi Meghe, Samta Nagar, Wardha, Tq. and Distt. Wardha.

... PETITIONER

**VERSUS**

1. Union of India, through its General Manager, Central Railway, C.S.T. Mumbai – 400 001
2. The Divisional Railway Manager Personnel, Central Railway, Nagpur – 440001.
3. The Chief Medical Superintendent, Central Railway, D.R.M.S. Campus, Nagpur – 440001.
4. The Senior Divisional Medical Officer, Central Railway, Nagpur – 440001.

... RESPONDENTS

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Shri A.R. Ingole, Advocate for the petitioner.  
Shri N.S. Deshpande, Deputy Solicitor General of India for respondent no.1.

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CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.  
DATE : 16.06.2025.

ORAL JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. By this petition, the petitioner is challenging the judgment and order dated 28.03.2019 passed by the Central Administrative Tribunal, Bench at Nagpur (for short hereinafter referred to as 'the Tribunal') in Original Application no.2021/2018 rejecting the application filed by the petitioner.

4. It is the case of the petitioner that he was working at T.R.S. Electrical Department as Technician Grade II and was permitted to travel from one station to another. During his service, he met with an accident on 22.08.2016. Due the said accident his both legs were amputated above the knee. The petitioner was under the treatment in the Hospital till 31.12.2016. It is stated by the petitioner that as he was being superannuated on 31.12.2016, he was discharged from the sick

on 29.12.2016 for completing the retirement formalities as per the required procedure. According to the petitioner, as his both legs were amputated, he approached to the Tribunal by filing Original Application No. 2021/2018 seeking quashment of the order of the Medical Authority i.e. "Fit" certificate no.C584846 and directions to the respondents to grant an appointment to his son on compassionate ground as envisaged in the Railway Board Circular dated 12.12.1990.

5. Before the Tribunal, the present respondents appeared and opposed the application of the petitioner by raising the ground that at the time of accident, the Policy framed by the respondent/ Railway Department bearing RBE No.78/2006 was in existence and as per the said policy, the case of the petitioner was not covered to grant appointment on compassionate ground to his son.

6. Learned Tribunal by the impugned judgment and order dated 28.03.2019 dismissed the application mainly on relying upon the Circular No.RBE No.78/2006 dated 14.06.2006 issued by the Government of India, Ministry of Railway ("Railway Board"). Being aggrieved by the said judgment and order of the Tribunal, the petitioner filed the present petition.

7. We have heard the respective Counsel at length and

perused the record.

8. The order of the learned Tribunal is assailed by the petitioner mainly on the ground that there is Master Circular No. 16 issued by the Railway Board on 12.12.1990 by which it is stated that priority is to be given in making appointment on compassionate ground to those dependents of employee who died or permanently crippled during the course of duty. But according to him, the Tribunal committed an error by relying upon the Circular dated 14.06.2006 instead of Master Circular dated 12.12.1990. Hence, on this basis the petitioner states that the impugned judgment and order of the Tribunal being bad in law, the same deserves to be quashed and set aside.

9. Learned Counsel for the respondents stated that at the time of filing of the application before the Railway Board, the Policy framed by the Government of India (Ministry of Railway Board) dated 14.06.2006 bearing RBE No. 78/2006 was in existence. The said Policy has been framed by the Department pursuing the demand raised by the staff regarding an appointment on compassionate ground in the Annual Board meeting. As such, the Circular dated 14.06.2006 is required to be adopted while deciding the application of the petitioner seeking appointment of his son on compassionate ground.

10. It will be profitable to point out the law laid down by the Hon'ble Supreme Court in the case of ***N.C. Santosh vs. State of Karnataka and ors (2020) 7 SCC 617***, wherein the Hon'ble Supreme Court held that no aspirants has vested right to claim compassionate appointment. Furthermore, Appointing Authority should consider the application according to the norms prevailing on the date of consideration of application. The Hon'ble Supreme Court specifically observed in its decision in paragraph 19 which reads as under :

*“19. Applying the law governing compassionate appointment culled out from the abovesited judgments, our opinion on the point at issue is that the norms, prevailing on the date of consideration of the application, should be the basis for consideration of claim for compassionate appointment. A dependent of a government employee, in the absence of any vested right accruing on the death of the government employee, can only demand consideration of his/her application. He is, however, disentitled to seek consideration in accordance with the norms as applicable, on the day of death of the government employee.” (emphasis supplied).*

11. In the present case, it is not disputed that accident of the petitioner was occurred on 22.08.2016. Admittedly, at that time, the Policy framed by the Railway Board RBE No. 78/2006 was in operation. For the perusal and satisfaction, the relevant portion of the Policy is reproduced as under :

*“4. Pursuant to the demand raised by staff side the issue has been deliberated upon at length in the full Board Meeting and it has been decided that compassionate ground appointment to the wife/wards/dependents of partially medically de-categorised staff who seeks voluntary retirement may be given subject to the following provisions :*

*(a) The appointment will be given only in the eligible Group ‘D’ categories. ‘Eligible’ would mean that in case Group ‘D’ recruitment is banned for any particular category, the same would also apply for the compassionate ground appointments.*

*(b) Such an appointment should only be given in case of employees who are declared partially decategorised at a time when they have at least 5 years or more service left.*

*(c) CMD of the Railways should keep a watch over the trend of de-categorisation so that the present figure do not get inflated. CMD should also get 10% partially de-categorised cases re-examined by another medical Board not belonging to Divisional Hospital which initially declared them unfit.”*

12. From the above said Clause 4(b), it is clear that if the employee who is declared partial decategorised, would not be entitled for the benefit of Policy of compassionate appointment unless 5 years or more service is left in his service.

13. In the present case, it is admitted fact that date of accident of the petitioner was 22.08.2016 and he attained age of superannuation on 31.12.2016. Hence, as per the Policy framed by the

Railway Board i.e. RBE No.78/2006 dated 14.06.2006, he was not entitled for the said claim.

14. It is further stated that it is now well settled position of law that the object of granting compassionate appointment is to enable the family to tide over certain crisis and to grant relief to the family against financial destitution, who have lost their breadwinner. Compassionate appointments are invariably made looking to the eligibility of the dependent seeking employment and the post held by the deceased who was the member of service. It is further settled position of law that compassionate appointment is not a vested right and no person can claim as of right to get appointment on compassionate ground.

15. In the present matter, it is pointed out by the respondents that after attaining age of superannuation by the petitioner on 31.12.2016, the Department had released all statutory benefits to him. As such, his family is not tide over any crises nor in any financial destitution. As such, considering the settled principles of law the petitioner cannot claim a vested right to get appointment on compassionate ground.

16. Hence, in view of the settled position law and the circumstances, we are of the considered opinion that there is no

illegality or perversity in the judgment and order dated 28.03.2019 passed by the learned Tribunal in Original Application No.2021/2018. Consequently, no interference is warranted. Accordingly, the Writ Petition stands dismissed.

17. Rule stands discharged. No costs.

**(PRAVIN S. PATIL, J.)**

**(SMT. M.S. JAWALKAR, J.)**

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