

Ravi Kumar Vs. Union of India Through General Manager East Central Railway and Ors

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Court : Jharkhand

Decided On : Jan-12-2017

Appellant : Ravi Kumar

Respondent : Union of India Through General Manager East Central Railway and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 4703 of 2015
Ravi KumarPetitioner Versus 1. Union of India through General Manager,
East Central Railway, Hajipur (Bihar).

2. Divisional Railway Manager, East Central Railway, Dhanbad.

3. Sr. Divisional Personnel Officer, East Central Railway, Dhanbad.

4. Sr. Section Engineer (Loco), East Central Railway, Dhanbad.

5. Dy. Registrar, Central Administrative Tribunal, Ranchi. ... Respondents -----

CORAM : HONBLE MR. JUSTICE H. C. MISHRA HONBLE MR. JUSTICE Dr.

S.N. PATHAK ----- For the Petitioner : Mr. M.A. Khan, Advocate For the

Respondents : Mr. Mahesh Tiwari, Advocate. ----- 12/ 12.01.2017 Heard the

learned Counsel for the petitioner as also learned Counsel for the respondents.

2. The petitioner is aggrieved by the order dated 24 th March, 2015, passed by the Central Administrative Tribunal, Patna, Circuit Bench at Ranchi, in O.A No. 271 of 2012(R), whereby the application filed by the petitioner for a direction upon the respondents to consider his case for compassionate appointment, has been dismissed by the Central Administrative Tribunal.

3. The facts of this case as detailed in the impugned order, lie in a short compass. Sri Jagdish Ram, the father of the petitioner, who was working as Diesel Assistant Loco Pilot, was sent for medical examination 12.04.2000 and after examination held on 19.04.2000, he was declared unfit for A1 and B2 categories, but found fit for sedentary job only. Thereafter, the father of the petitioner appeared before the Screening Committee and due to his inability in performing the alternative job, his candidature was rejected vide order dated 16.08.2000. The father of the petitioner gave application for VRS, which was accepted by office order dated 08.09.2000 and he was relieved with effect from 31.08.2000. According to the petitioner, his father applied for compassionate appointment in his favour on 29.11.2000 before the competent authority, but the copy of the application was misplaced by him. Thereafter, father of the petitioner made application dated 19.03.2009 for compassionate appointment of his son, i.e., the petitioner. However the case of the petitioner was rejected on 07.11.2009. The petitioner once again made application before the Compassionate Adalat at Dhanbad, which also turned down the request of the petitioner by order dated 07.12.2009. Thereafter the father of the petitioner filed the application under RTI Act on 21.02.2012, in response to which the reply dated 16.03.2012 had been given, giving the reason for rejecting the application, which has been brought on record as Annexure-12 to this writ application. This document shows that according to Railway Board's letters detailed therein, the -2- cases of wards of medically de-categorised employees are to be considered for appointment on compassionate ground only within the period of five years from the date of medically de-categorisation of the ex-employee. Since the application for compassionate appointment was filed after the period of five years, the same was rejected.

4. The petitioner claimed that his father had given an application for compassionate appointment of the petitioner to the competent authority on

29.11.2000 itself, which had been misplaced. Thereafter on 25.07.2011 he filed an application for providing a photostat copy of that application. In reply to that he was allegedly given a photostat copy of an entry in a peon book showing his name. On the basis of the said entry in the peon book showing the name of the father of the petitioner, the petitioner filed O.A in the Central Administrative Tribunal claiming that application for compassionate appointment was given within time and accordingly, prayer for direction upon the respondent authorities to consider the case of the applicant for the benefit of compassionate appointment was made in the said O.A. The written statement was filed on behalf of the Railways in which the authenticity of the said document was questioned by the respondents stating that no such document was available with the respondents. The Central Administrative Tribunal has also noted in the impugned order that the copy of the peon book as claimed by the petitioner, is totally illegible and in a distorted condition and no conclusion regarding date and signature can be arrived at from perusal of the said document. The Central Administrative Tribunal has given conclusion that even if it is accepted that the father of the applicant had submitted the application on 29.11.2000, even then when his case was not considered, the applicant had not taken any initiative to challenge the same before the Central Administrative Tribunal within time, and the O.A was filed in the Central Administrative Tribunal only in the year 2012, without any application for condonation of delay. The O.A. has accordingly, been dismissed by the Central Administrative Tribunal.

5. Learned counsel for the petitioner submitted that the impugned order passed by the Central Administrative Tribunal is absolutely illegal and cannot be sustained in the eyes of law. It is submitted by the learned counsel that since the application for compassionate appointment was filed in the year 2000 itself, soon after the acceptance of the VRS of the father of the petitioner, the petitioner is entitled to the compassionate appointment.

6. Learned counsel for Union of India on the other hand has opposed the prayer and has submitted that there is no application on record which is alleged to be filed by the father of the petitioner on 29.11.2000. Only the claim is being based on the basis of an entry in an alleged peon book which is also not available with the

respondents and the Central Administrative Tribunal has come to the conclusion that the said entry is absolutely illegible and in the distorted condition and no conclusion regarding the date and signature could be arrived at from perusal of the said document. It is the clear case of the respondents that after the acceptance of VRS of the father of the petitioner in the year 2000 the first application for compassionate appointment was made only on 19.03.2009, -3- which was hopelessly time barred and was rejected in view of the extant circulars and orders of the Railway Board. Learned counsel accordingly, submitted that there is no merit in this writ application.

7. Having heard the learned counsels for both the sides and upon going through the record, we find nothing in the record in support of the claim of the petitioner that the application for compassionate appointment was filed by the father of the petitioner in the year 2000 itself soon after the acceptance of his VRS. In absence of any such document, the only document which is available for compassionate appointment is of the year 2009, which is much beyond the period of five years as prescribed in the letter dated 16.03.2012 as contained in Annexure-12 to the writ application, which shows that in view of the extant circulars and orders of the Railway Board the case for compassionate appointment of the wards of medically de-categorised employees are to be considered only within a period of five years from the date of their medically de-categorisation.

8. We are of the considered view that the petitioner has failed to make out any case for his compassionate appointment and the application of the petitioner has rightly been rejected by the Central Administrative Tribunal, Patna, Circuit Bench at Ranchi, by the impugned order dated 24.3.2015, passed in O.A No. 271 of 2012(R).

9. We find no merit in this writ application and the same is accordingly, dismissed.
(H. C. Mishra, J.) (Dr. S.N. Pathak, J.) P.K.S./Anjali