

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This the 22nd day of January 2020

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Misc. Delay Condonation Application No. 330/00907/2015

In

Original Application No. 330/00269 of 2015

1. Smt. Urmila Devi widow of late Ramesh Chandra son of Sri Ram Khelawan Sweeper, Resident of 4/4 Bhusauli Tola, Police Station Khuldabad, District Allahabad.
2. Ms. Ikta daughter of late Ramesh Chandra.
3. Nanka son of late Ramesh Chandra.
4. Km. Sanjogta daughter of late Ramesh Chandra.
All Resident of 4/4 Bhusauli Tola, Police Station Khuldabad, District Allahabad.

. . . Applicants

By Adv: Shri S.M Iqbal Hasan.

V E R S U S

1. Union of India through its Secretary, Ministry of Railway Baroda House, New Delhi.
2. Divisional Railway Manager, North Central Railway, Allahabad.
3. Senior Divisional Finance Manager North Central Railway, Allahabad.
4. Station Master Uttar Madhyamik Railway Ucha Deeha, Allahabad.

. . . Respondents

By Adv: Shri OM Prakash Sharma

O R D E R

1. This order disposes of the application seeking condonation of delay in filing the O.A. as well as the O.A. also. Case of applicant is that deceased Ramesh Chandra husband of applicant Urmila Devi on being appointed on 09.10.1978 was working as a Sweeper in the respondents department at Ucha Deeha and expired on 11.04.2006 while in service of the respondents and had completed 28 years of service. Applicants further aver that despite being incumbent upon

the respondents railway, no offer of compassionate appointment was made to the applicant and that the respondents have also not given the retiral dues and pension to the applicants to which they are entitled under law. Hence, the applicants seek the following reliefs:-

- "(i) **To pass order or direction directing the respondent authorities to calculate all the pensionary benefits such as family pension, gratuity, Insurance, leave in-cashment and other retirement dues to the applicants forthwith.**
- (ii) **To pass order or direction commanding the respondent authorities to appoint the daughter of deceased namely Km. Sanjogata on the suitable post forthwith in the respondent organization.**
- (iii) **To pass order or direction commanding the respondent authorities to grant and pay the other pending dues of the deceased employee to the applicants forthwith with all consequential benefits.**
- (iv) **To pass order or direction commanding the respondent authorities to pay the interest delayed payment at the bank rate of fixed deposit.**
- (v) **To issue any other suitable order or direction in the light of the facts and circumstances of the case, which this Hon'ble Court may deem fit and proper.**
- (vi) **To award costs of the petition to the applicant".**

2. Respondents in their counter affidavit have taken the plea that deceased Ramesh Chandra being on unauthorized leave was removed from Railway service w.e.f. 16.8.1994. That the applicants never filed any representation seeking the retiral benefits of deceased Ramesh Chandra and that no supporting documents have been placed on record by the applicants in support of their contention that deceased Ramesh Chandra was working upto 2006. That the O.A. being time barred, is liable to be dismissed.

3. I have heard and considered the arguments of learned counsel for the parties and gone through the material on records.

4. Applicants seek two reliefs i.e. pertaining to retiral benefits of deceased and appointment on compassionate ground. The applicants seek condonation of delay in filing the O.A. In so far as the relief of compassionate appointment is concerned, the same is clearly barred by period of limitation since deceased Ramesh Chandra died on 11.04.2006 and therefore, in any circumstances whatsoever, applicants were duty bound to file the O.A for appointment on compassionate ground within the specified period as prescribed by

Section 21 of Administrative Tribunals Act, 1985. However, the present O.A. has been filed in the year 2015 and, therefore, the claim of the applicants seeking compassionate appointment is clearly barred by period of limitation. In this regard reference may be made to **State of H.P. v/s Shashi Kumar, (2019) 3 SCC 653** wherein the Hon'ble Apex Court held that "*This cannot be equated with a situation where a dependant of a deceased employee who was a major on the date of death fails to submit an application within a reasonable period of time from the death of the employee.*" And **Punjab State Power Corp. Ltd v/s Nirval Singh, (2019) 6 SCC 774** wherein on the question of delay in seeking compassionate appointment, it was observed by the Hon'ble Apex Court that "*The first is the delay in approaching the courts for redressal after a period of 7 years even if he is making representations. The very objective of providing immediate amelioration to the family is extinguished.*"

5. However, regarding the relief of retiral benefits, it being a recurring benefit, the question of limitation would not apply to the said relief, as such, there is no delay in filing the O.A. with regard to the retiral dues and pension, if any, payable to the applicants as discussed below.
6. It is admitted position that deceased Ramesh Chandra was appointed in the respondents department on 09.10.1978 and expired on 11.04.2006. However, respondents have taken the plea that the deceased Ramesh Chandra was removed from service vide order dated 16.8.1994 to which the applicants have averred in their rejoinder affidavit that neither deponent nor deceased Ramesh Chandra had any information with regard to removal of service from 16.08.1994 since no notice etc. was given by the railway department.
7. As per the documents attached by the applicants, it comes out that applicant Urmila Devi had filed applications under Right to Information Act in the Railway Department seeking information regarding her right to receive pension, gratuity, P.F etc. of deceased Ramesh Chandra. The said applications were received by the P.I.O of the Railway Department, which is clear from the letter dated 21.09.2014 attached to the O.A.
8. The service law is clear that on the death of an employee, his legal heirs are entitled to receive the retiral benefits of the deceased. In the

present case, applicants have sought the reasons for the non-disbursement of the retiral dues, if any, of deceased Ramesh Chandra.

9. Looking to the facts and circumstances of the case and in interest of justice, direction is given to the respondents to treat the applications filed under R.T.I Act as representations and take appropriate action under law for looking into the question as to whether applicants are entitled to the retiral benefits, if any, of deceased Ramesh Chandra and dispose of the representations by reasoned and speaking order with intimation to the applicants Urmila Devi within a period of four months from the date of receipt of a certified copy of the order. The respondents would also consider the contents of the pleadings of this O.A while considering the matter. It is made clear that the relief pertaining to compassionate appointment is disallowed being barred by period of limitation. O.A. is partly allowed to extent mentioned above. No costs.

(RAKESH SAGAR JAIN)

Member (J)

Manish/-