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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A. No. 754/95

Date of decision 23.8.96

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Sunil Tiwari,
son of Late Shri Shambhu Dayal Tiwari,
Retd. Ticket Collector,
Western Railway, Jaipur.
gr. No. 289, Sector-9,
R.K.Puram, New Delhi.

(By Advocate Sh. G.J. Bhandari) ... Applicant

Vs.

1. Union of India
through the Genl. Manager,
Western Railway,
Church Gate, Bombay.

2. The Divisional Railway Manager,
Western Railway, Jaipur.

(By Advocate Shri P.S. Mahendru through proxy
counsel Shri D.S. Mahendru) ... Respondents

D R D E R (DRAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

This application has been filed seeking a direction to the respondents to consider the case of the applicant for compassionate appointment either in Group 'C' or in Group 'D' Post. At the outset, Shri Bhandari, learned counsel for the applicant submits that he has not pressed the prayer for interim relief nor was it granted in this case.

2. Admittedly, the facts in this case are that the applicant is the second son of late Shri Shambhu Dayal Tiwari who died on 16.5.85, after he was medically declassified and retired on 6.2.1980. At that time, the deceased employee was working as Fireman/Ticket Collector at Riy. Station, Jaipur. While the applicant's father was alive he had made a representation to the

Divisional Railway Manager(WR) on 10.7.85 for appointment of his first son, Shri Ramesh Chander Tiwari(mentioned as Shri Ramesh Kumar s/o Sh. Shambhu Dayal Tiwari in para 4.10 of the O.A.) on account of premature retirement. The first son himself made a representation in pursuance of the circular dated 6.5.85 for being appointed as Motor Driver, which application has also addressed to the DRM (WR), Jaipur. The widow of the late employee had also submitted a similar application for appointment of her first son, Shri Ramesh Chander, as Motor Driver. The applicant in this case has also submitted another application for compassionate appointment to the DRM(WR) on 12.8.89 (Ann.A.1(a) in which it is stated that the case of his elder brother, Shri Ramesh Chander, who had applied for the post of Motor Driver, has not been considered. The applicant further mentioned that since he has attained the age of majority, he should be considered for appointment on compassionate ground. This O.A. has been filed on 21.4.95 for the same relief.

3. Shri D.S. Mahendru proxy counsel for the respondents has taken preliminary objections to the O.A. on the grounds of limitation and jurisdiction. He has submitted that allegations of malafide has been made against the Station Superintendent, Jaipur who has, however, not been made a party in this case. He states that the first son of the late Sh. Shambhu Dayal Tiwari has been employed as Motor Driver with Respondent No.2 and therefore, submits that ^{also} all these grounds the O.A. may be dismissed. He relies on the judgment of the Tribunal in Smt. Basanti Devi & Ors v. UOI & Ors. (OA 187/88) decided on 18.5.1992.

4. Shri G.D. Bhandari, learned counsel for the applicant ^{YB} has controvorted the above submissions and submits that the

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O.A. should be allowed. He submits that having regard to the Railway Board circular No.ENG-II/84-RC-1/26 D dated 22.12.1994, the applicant had applied for compassionate appointment within 15 years from the date of death of his father and in the case of a minor son the General Manager has powers to relax the period by further two years from the date of attaining majority of the candidate. The applicant who was born on 16.6.69 made the representation to the D.R.M.(WR) on 12.8.89 after he became a major who should have forwarded it to the competent authority.

5. I have carefully considered the submissions made by the learned counsel for both the parties and records.

6. It is seen from the various applications made for appointment on compassionate grounds by the applicant and his family members that they have been addressed to the DRM(WR), Jaipur. The respondents in this case are the UOI through the General Manager(WR), Church Gate, Bombay, - Respondent No.1 and DRM (WR), Jaipur- Respondent No.2. Although the learned counsel for the applicant has now submitted that he is not pressing the interim relief in respect of retention of the Railway quarter which admittedly is at Jaipur, from the facts and circumstances of this case, ^{and is} having regard to Rule 6 of the CAT(Procedure)Rules, 1987, the preliminary objection taken by the respondents on the ground of jurisdiction has to be allowed.

7. After the applicant made his application for compassionate appointment on 12.8.89 to the DRM(WR), there is nothing on record to show what further action was taken till he filed this application on 21.4.1995. In the circumstances of the case the Railway Board circular dated

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22.12.1994 relied upon by the learned counsel for the applicant does not also assist him because the power of the General Manager to relax the period upto two years after attaining majority has also expired in 1991. Therefore, this application is also liable to be dismissed on the ground of limitation. *laches and delay and 15*

8. The applicant's elder brother who had applied for the post of Motor Driver is stated to have been so employed, although the applicant himself has given a vague denial. In this background there is no good reason on merits either to interfere in this case.

9. In the facts and circumstances and for reasons given above, this O.A. is dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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