

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 756 of 1997

New Delhi, this the 18<sup>th</sup> day of March, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)

Tej Bahadur S/o late Shri Roop Chand  
@ Roop Lal Gupta, resident of 9224,  
Gali Mata Wali, Tokriwala, Delhi-110006

(2)  
- APPLICANT

(By Advocate Shri P.L. Mimroth)

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi-110001.
2. Divisional Railway Manager, Northern Railway, State Entry Road, New Delhi.
3. The Divisional Personnel Officer, D.R.M's Office, Northern Railway, State Entry Road, New Delhi.
4. Smt. Shiv Wati, Water Women, C/o D.R.M's Office, Northern Railway, State Entry Road, New Delhi. - RESPONDENTS

(By Advocate Shri B.S. Jain)

O R D E R

By Mr. N. Sahu, Member (Admnv) -

The applicant seeks a direction for release of all retiral benefits due to his late father and also wants his case to be considered for compassionate appointment.

A brief background of the case is as follows - The applicant's father Shri Roop Chand was appointed on 26.12.1954 and was subsequently declared medically unfit on 25.5.1983. He declared Smt. Shiv Wati aged about 45 years as his wife and Shri Tej Bahadur aged 8 years as his son. This declaration dated 31.8.1983 is to be found in a nomination form of Shri Roop Chand, which is annexed

*Forwarded*

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to the counter affidavit as Annexure-R-1, Shri Roop Chand expired on 20.11.1983. Retiral benefits have been paid to Smt. Shiv Wati. She has also been employed as a Waterwoman on compassionate grounds. The fact of appointment of Smt. Shiv Wati was known to the applicant from the notice he gave to the General Manager, Northern Railway on 2.7.1993 under Section 78(b) of the Indian Railways Act and Section 80 of the CPC.

2. In this Original Application filed on 2.4.1997 the applicant states that his mother Kanta Devi predeceased his father and alleges collusion of Shiv Wati with certain employees of the Railway administration. Smt. Shiv Wati, it is stated forcibly occupied the quarter allotted to his father and got wrongly a job in the Railways as a Waterwoman. The applicant after attaining the age of 18 years and having become a major on 30.6.1994 preferred his claim as advised by a lawyer. He filed a suit before the District & Sessions Judge which was dismissed on 20.7.1996. Thereafter he was advised to file an OA before this Court. He accordingly filed an OA on 24.7.1996. In that C.A. certain objections were raised and as those objections could not be removed the said C.A. was dismissed as withdrawn. Whereafter the present C.A. was filed.

3. The present C.A. suffers on the ground of limitation. The applicant has to explain the cause of delay. There is absolutely no valid ground for

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admitting this O.A. after a lapse of 14 years, the cause of action having arisen on 25.5.1983. The applicant might be a minor at that time but it is not possible to revive the claim on pension when Shiv Wati was declared by his father as his wife. She had also taken an appointment on compassionate grounds as a Waterwoman. A compassionate appointment to the applicant cannot be considered after such a long lapse of time. The appointment can be given only to one member of the family. In all these cases of payment of retiral benefits the nomination of the employee either before his death or retirement is conclusive of the matter. If there is any dispute it should be raised by the surviving members of the family well in time. After allowing Smt. Shiv Wati to secure the retiral benefits, family pension, and compassionate appointment, it has now become stale after 14 long years to dispute the claim about the propriety of the nomination made.

4. An effort was made by the learned counsel to convince me with the following facts: Shri Roop Chand married once and his to state that Shri Roop Chand married once and his legally wedded wife Smt. Kanta Devi predeceased him in the year 1980, three years prior to the applicant's father's death. There were only two children born out of the legal wedlock, namely, daughter Asha Rani and the applicant. In proof of this, the applicant has annexed a copy of the ration card. The nomination form Annexure-R-1 dated 21.8.1983 is impugned as a

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forged and fabricated document. This allegation cannot be entertained at this stage. The claim that other valid nominations were made during service under Rules 53(1) and 54(12) of the CCS(Pension) Rules, 1972 is not borne by the records. It is only a mere claim. At any rate the latest nomination has been shown to be final. The claim that gratuity should have been paid to the surviving members of the family in equal shares can be considered only when the widow's identity or genuineness is in dispute and when the other members have become major. In this case the applicant was a minor when Smt. Shiv Wati received the retiral amount.

5. I have carefully considered the submissions of the learned counsel for the applicant. In the first place this application cannot be admitted. It is barred by limitation. In a compassionate appointment the question of further appointment does not arise after a lapse of a decade and half. The question would arise as to how the family had been pulling on all these years. On that ground the claim of compassionate appointment falls. With regard to retirement benefits also the payment already made cannot be disputed at this distance of time.

5. In the result, the Original Application is dismissed. No costs.



(N. Sahu)  
Member (Admnv)

18/3/98

rkv.