

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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DA No. 841/2000

New Delhi, this the 13th day of November, 2000

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

1. Smt. Sushila Devi w/o
Late Shri Fateh Narayan Saxena,
Add. C/o Shri S.K. David,
Bihari Vilas, Tundla,
Distt. Firozabad (U.P.)

2. Kumari Rajni Saxena d/o
Late Shri Fateh Narayan Saxena,
Add. C/o Shri S.K. David,
Bihari Vilas, Tundla,
Distt. Firozabad-283204
Uttar Pradesh

.....Applicants

(By Advocate : Jetendra Singh)

Versus

1. Union of India through
Chairman, Railway Board,
Rawl Bhavan,
New Delhi

2. General Manager,
Northern Railway,
Baroda House,
New Delhi

3. Divisional Rail Manager,
Allahabad Division
Allahabad
(U.P.)

.....Respondents

(By Advocate : Shri R.L. Dhawan)

ORDER

This DA has been filed by the applicant for compassionate appointment in place of late S.N. Saxena who was a Tool Room Attendant in Northern Railway when he expired on 13.5.80. He died in harness.

2. None was present at the time of hearing of this case and, therefore, this order is being passed after the perusal of the material on record.

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3. The facts of the case are that late Mr. Saxena left behind him his widow Smt. Shushila Devi and the unmarried/unemployed daughter Km. Rajni Saxena besides three sons and yet another daughter. The said widow and the daughter, named above, are the applicants in this OA. The case of the applicant is that soon after the death of late Saxena, the applicant No.1 filed an application with DRM, Northern Railway (Respondent No.3) on 12.11.80(A-1). By this application, the applicant No.1 has requested for the employment of the applicant No.2. The same applicant filed another application with the DRM, Northern Railway, New Delhi on the same date and seeking similar relief. A copy of this latter application was forwarded to the Respondent No.2. It has been alleged that the respondents did not care to respond to the aforesaid applications and, therefore, the widow filed yet another application on 7.7.96 before the respondent No.2 and apparently copied this application to the respondent No.3 and the then Railway Minister. Thereafter, the widow of the deceased employee received a letter from DRM, Allahabad (Respondent No. 3) asking for information on a number of points listed in the letter dated 14.8.96. The same was replied to by the widow vide her letter of 11.9.96. This was followed by a reminder letter of 12.7.97 to the respondent no.3 with copy to the Divisional Personnel Officer, Allahabad. Vide their letter dated 12.9.97, the DRM, Allahabad (Respondent No.3) again sought clarifications from the widow of the deceased employee on a number of the points. This too was replied on 30.9.97. When nothing happened, the widow addressed the then Railway Minister, vide her letter dated 8.1.99 and copied that letter to the DRM, Allahabad (Respondent No.3). Then

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Y followed another reminder letter dated 4.8.99 to the Respondent No.1 (Chairman, Railway Board). This has been filed as the respondents have, according to the applicant, failed to consider her petition favourably and have not responded in the matter despite several representation referred to.

4. Respondents find so many problems with the present OA. According to them, the OA is barred by limitation and is not maintainable under Section 21 of the Administrative Tribunals Act 1985. The Railway employee in question died in May 1980 and reckoned from that month/year, the present OA has been filed after a lapse of 20 years. The respondents have in this context relied on the judgement of the Supreme Court in S.S. Rathore Vs. State of Madhya Pradesh in which it has been held that repeated representations cannot be counted towards limitation. They have also pleaded that since the grievance in this case arose in 1980, the provision of Section 21(2) of the Administrative Tribunals Act 1985 would stand in the way and bar the entertainment of this OA. According to the respondents, the application is also hit by the problem of jurisdiction inasmuch as the applicants are admittedly residing at Tundala and the deceased employee was also posted at the same place. The applicant should, therefore, have filed this OA in the Allahabad Bench of this Tribunal. Furthermore, the applicants have not furnished the requisite undertaking in accordance with the the prescribed format of the OA (para-7) to the effect that they had not filed any such application previously nor a suit or a writ petition in

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the matter was pending before any court of law. According to the respondents, the application for compassionate appointment was made for the first time in November, 1995, i.e. after a lapse of more than 15 years and that prior to this no application was received by them. The respondents' case is that notwithstanding the abnormal delay on the part of the applicants, they had considered the case in accordance with the extant policy (R-1) and the same was not found to be a fit case amongst others on the ground that three elder sons of the deceased employee were already working in the Railways. They had duly replied to the applicant No.1 vide their letter of 31.8.98 (R-2). The respondents have also relied on the Hon'ble Supreme Court's judgement in State of U.P. Vs. Paras Nath stating that in that case the court has held that the purpose in providing employment in such cases is to mitigate the hardship caused to the family of the deceased employee and the object is also to provide immediate financial assistance to the family. The circumstances of this case, according to the respondents, are such as do not warrant consideration in terms of the principle laid down by the Supreme Court as above. Moreover, since the applicants have not produced any evidence in support of their claim of having filed so many representations in the past 15 years or so, I have no option but to accept the version of the respondents that the first representation for compassionate appointment was received by them in November, 1995. I have perused the policy framed by the Railway Board for appointment on compassionate ground (R-1). The same provides for compassionate appointment in favour of a daughter but it is laid down thereunder that such cases should be kept

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pending only for five years after which the claim will lapse. The policy also provides that in a case in which the son or daughter happens to be minor at the time of the death of the employee, the matter can be kept pending till the son/daughter becomes major. In the instant case, the daughter in question (Applicant No.2) who was born in 1961 was already a major when her father (deceased employee) died in May, 1980. In such a case, there was no justification, therefore, in delaying the filing of application for compassionate appointment. If the applicant No.1 did actually approach the respondents in Nov. 1980, as has been claimed in the OA (though denied by the respondents), they should have approached this Tribunal much earlier.

5. In the facts and the circumstances of this case, I am inclined to agree with the respondents who have, in their letter dated 31.8.98 (R-2), clearly stated that there is no justification for entertaining the petition after a lapse of more than five years. In the result, the OA fails on merits as well as on the ground of limitation and is dismissed without any order as to costs.

S.A.T. Rizvi

(S.A.T. Rizvi)
Member (A)

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