

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. NO.1993/90

DATE OF DECISION: 06.01.92.

SMT. ANGURI DEVI & ANOTHER

APPLICANTS

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

FOR THE APPLICANT : SHRI B.S. MAINEE, COUNSEL

FOR THE RESPONDENTS : SHRI P.S. MAHENDRU, COUNSEL

ORAL JUDGEMENT

The prayer in this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, is for compassionate employment of Applicant No.2 (Shri Narayan Singh), who is the younger brother of late Sh. Ram Bharosey, who was employed as a Fire Man in the Northern Railway, last working at Tundla. The O.A. was retained in the Principal Bench, on an application under Section 25 of the Administrative Tribunals Act, 1985, by the orders of the Hon'ble Chairman.

2. The facts necessary to understand the contentions involved, briefly stated, are that Sh. Ram Bharosey died at the prime of his life, on 6.1.980, allegedly having been murdered, on way back from his duty, leaving his widow alone, without any child, and aged parents and a younger brother (applicant No.2). The age of the widow at the time of alleged murder of Sh. Ram Bharosey is stated to be about 22 years, without any formal education or other adequate means of sustenance. Applicant No.2 is stated

to be minor at the relevant time, and accordingly, the widow, firstly, applied for the compassionate employment of her own brother, but the same was rejected sometimes in 1981 by the authorities concerned. Later, on attaining the age of majority by Applicant No.2, the widow again requested the authorities concerned, for giving him compassionate employment, in place of her late husband, submitting necessary affidavit etc., in support, as required by the authorities concerned, to the effect that applicant No.2, in case of being given the employment, would serve as the bread-winner for the widow of the deceased. It may be worthwhile to mention here that father of late Sh. Ram Bharosey, also a railway employee (Shunter), was a T.B. patient and had also since retired from railway service.

3. In the counter filed by the respondents, the case of compassionate employment of Applicant No.2 has been opposed, on various grounds. The first being that the application is time-barred, having been filed on 19.9.90, that is much beyond the expiry of one year from the date of rejection i.e. 10.1.1985 (Annexure A-5). Further, though there were several other representations by the widow of late Sh. Ram Bharosey, for reconsideration/condonation of the time limit of five years for applying for employment on compassionate grounds, from the death of Sh. Ram Bharosey, which expired on 5.1.1985 and as such, application though stated to have been submitted on 24.12.1984, but is stated to have been received in the office of D.R.M., Allahabad on 9.1.1985, through the Railway Welfare Inspector concerned,

and, hence, is also belated. It was submitted by the learned counsel for the applicant that, in a case like the present one, i.e. for compassionate employment, and that too in a case in which the illiterate widow not familiar with the technicalities involved, strictness to the extent of delay for a few days, even if it was there, should not be made the ground for rejection of her prayer.

4. Another objection was raised by the learned counsel for the respondents that Applicant No.2 himself has not submitted any application for his compassionate employment in place of her deceased brother. However, we find that there is an affidavit by Applicant No.2 himself in this regard, besides, the widow, who is the most concerned person for making request for compassionate employment, had applied for, in favour of Applicant No.2, which, to our mind, should suffice for the purpose of meeting this objection.

5. The next objection raised by the learned counsel for the respondents was that Annexure A-1 which is dated 30.10.1989, and has been alleged as impugned order in the case, cannot be taken, as such, for purposes of reckoning of limitation, being an inter-departmental communication, besides repeated requests on the same point do not extend the limitation involved. The learned counsel for the applicant, in order to meet this objection, referred to ATR 1988 V.1 P.1 (B. Kumar's case) and submitted that, as is evident from Annexure A-1, applicant's case was recon-

sidered but rejected, and hence in these circumstances, the limitation should be counted from the date of this communication. After carefully considering this aspect and keeping in view the subject matter involved which is regarding the compassionate employment, a marginal delay of three days or so, in this case, should not be allowed to stand in the way of consideration of applicant's case for compassionate employment.

6. Considering the prayers made in the OA, reply thereto in the counter and rejoinder filed by the applicant, and keeping in view the facts and circumstances of the case, and also the rival contentions, as briefly discussed above, we are of the view that the facts of the case do require consideration of the case of Applicant No.2, by the General Manager, Northern Railway, in terms of Railway Board letter dt. 18.4.1985 (Annexure A-19 to the OA), read with Railway Board circular dt. 20.4.1988 (Annexure A-21 of the paer-book), who he may, accordingly, reconsidered his case for some suitable employment, keeping in view his educational qualifications. This will, however, be subject to the condition that the applicant No.2 will support the widow, in terms of the requirement of the scheme, to serve as a bread-winner for her, failing which the employment offered, would be liable to be cancelled. Action in this regard be accomplished within four weeks from the date

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of receipt of a copy of this order.

7. O.A. decided on the above lines, with no order
as to costs.

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J)

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