

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2726/92

DECIDED ON : 16.4.93.

Manohar Lal

... Applicant

Vs.

Union of India & Ors.

... Respondents

CORAM :

THE HON'BLE MR. S. P. MUKERJI, VICE CHAIRMAN (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri K. L. Bhatia, Counsel for the Applicant

JUDGMENT

Hon'ble Shri J. P. Sharma, Member (J) :-

The applicant is the eldest son of Nathu Ram who died working as Gangman in the Railways on 18.5.1981. The applicant applied to his mother separately for his compassionate appointment on 10.9.1991 (Annexures I and II). Since the respondents did not favour the applicant by giving a compassionate appointment, the present application has been filed in October, 1992. There is no M.P. for condonation of delay and in para 3 of the application it is written that the application is within limitation.

2. The applicant has claimed the relief that the respondents be directed to appoint him on compassionate basis on a suitable Group 'C' or any other post for which he is eligible by virtue of his educational qualification of matriculation. We have heard the learned counsel for the applicant on admission.

3. We find in this case there is inordinate unexplained delay and laches on the part of the applicant in moving this application for compassionate appointment. We also find that

↓

the applicant has not given better particulars of the family of the deceased regarding the legal representatives left by the deceased employee. He has only mentioned that he looks after three minor children and the widow but their age and names etc. have not been furnished.

4. This application was taken up on 22.10.1992 and since then a number of opportunities were afforded to the learned counsel for the applicant to show the relevant law and to give better particulars but the same has not been done inspite of repeated adjournments time and again.

5. The contention of the learned counsel for the applicant is that the applicant was minor at the time when the deceased Railway employee, i.e., his father, died on 18.5.1981 and that he cleared the matriculation examination in June, 1991 and thereafter he applied in September, 1991 himself and through his mother for compassionate appointment to a suitable post in Group 'C'. The date of birth of the applicant is 5.4.1970. If minority is taken to be a ground, then the applicant ~~has~~ completed his majority on 5.4.1988 but he did not apply for any post with the respondents nor ^{has} any explanation for applying so late in September, 1991 ~~has~~ been furnished. Merely because the applicant has passed matriculation examination, it cannot be taken to be a ground of delay in applying for compassionate appointment. Compassionate appointment is provided to rehabilitate the family of a deceased employee so that the family may not be in a distress because of the death of the sole bread-earner. In this case, the employee died in 1981 and no steps were taken either by the widow of the deceased employee for getting compassionate appointment to rehabilitate the family. The delay in applying for compassionate appointment itself goes

to show that the family was not in need of immediate rehabilitation. The compassionate appointment is not a matter of right but it is provided only that after the death of the sole bread earner of the family, the family may not be in distress because of financial stringency. As per Railway Board circular if the deceased employee died in harness leaving behind minor children then the matter for compassionate appointment can be kept open for a period of five years and so by 1986, an application for compassionate appointment should have been made on behalf of the applicant by the widowed mother. That has not been done. No explanation whatsoever has been furnished in the application for condonation of delay so caused in applying for compassionate appointment. The widow too could have sought for an appointment at that time. The compassionate appointment is not meant for back-door entry to any post but it is only to rehabilitate the family of the deceased employee.

6. In the application also no details have been furnished to come to a finding whether the family is in indigent circumstances or not. The quantum of terminal benefits received by the deceased has also not been disclosed. It is not specifically detailed in the application whether there is any other source of income from any immovable property or not. Inspite of the opportunities afforded no better particulars have been furnished. The learned counsel for the applicant has referred to circular of the Deptt. of Personnel dated 30.6.1987 and 17.2.1988 but the case of the applicant is covered by the circular of the Railway Board where it is specifically laid down that the matter of compassionate appointment in the case of minors cannot be kept open beyond five years. In any case, the incumbent has to apply for a suitable post within a period of five years. If the contention of the learned counsel is accepted, then the matter of compassionate appointment shall have to be deferred

till any of the children of the deceased employee becomes major and the age of majority is 18 years. In normal course it will mean that the matter of compassionate appointment has to be kept open for 18 years which is not the spirit of the circular of the Railway Board.

7. In view of the above facts and circumstances, the law relied upon by the learned counsel for the applicant of Smt. Sushma Gosain & Ors. vs. Union of India : JT 1989 (3) SC 570 cannot help the applicant. The present application, therefore, does not make out a *prima facie* case and is dismissed at the admission stage itself under section 19⁽³⁾ of the Administrative Tribunals Act, 1985.

J. P. Sharma

(J. P. Sharma) 16.4.93
Member (J)

S. P. Mukerji
16.4.93

(S. P. Mukerji)
Vice Chairman (A)

as