

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.No.752/92

Date of decision: 19-2-93

Shri Richpal Singh .. Applicant

Vs.

Union of India .. Respondents

CORAM

The Hon'ble Justice Mr. S.P.Mukerji, Vice-Chairman (A)

The Hon'ble Mr. C.J. Roy, Member (J)

For the Applicant .. Shri O.N.Moolri, Counsel

For the Respondent .. Shri K.K. Patel, Counsel

(1) Whether Reporters of local papers may be allowed to see the Judgement? *Ans*

(2) To be referred to the Reporter or not? *No*

JUDGEMENT

Delivered by Hon'ble Mr.C.J.Roy, Member (J)

This application is filed under Section 19 of the Central Administrative Tribunal Act (No.13/85) by the applicant claiming relief to direct the respondents to relax the time limit and offer compassionate appointment to Class III post or other suitable post to him forthwith.

2. The father of the applicant was employed as Fitter Khalasi and he died on 12.12.1971, while the applicant was aged two years. The applicant was living with his mother and she deserted him to marry another person. It is also averred by the applicant in the application that for sometime his mother was getting family pension but later on it was stopped.

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The applicant claims majority of 18 years on 25.1.88. The applicant also claims to be a matriculate and was living with his uncle and before attaining majority, approached the respondents for a suitable post on compassionate ground on 28.11.67 (Annexure A-1). He made representations again on 15.1.88 (Annexure A-2) and 10.10.88 (Annexure A-3).

3. The Railway Board has recommended the case and directed the respondents for considering the case of the applicant as per Annexure A-6. Annexure A-7 is an internal correspondence dated 16.5.89 to re-examine the matter and give information after looking into the matter personally.

4. The applicant attacks the rejection of the compassionate appointment and hence has filed this application. The respondents have filed the counter that they have taken action to consider the case of the applicant and have claimed that the petition is time barred. The Railway Board also re-examined the case on the recommendation through the DRM and the reply was communicated to the respondents by way of an internal correspondence dated 23.8.89. When the mother of the applicant remarried, the relaxation of five years is to be done by the competent authority, as per the terms contained in GM(P) Confld. letter No.E-30/0-V(G) dated 30.4.1985. Since the competent authority has not relaxed the

five years age limit of the applicant, the petition is to be dismissed.

5. The applicant has also filed a rejoinder more or less citing several instances where the appointments were given to children.

6. We have heard the learned counsel for the applicant Shri O.N.Moorli and the learned counsel for the respondents Shri K.K.Matel, and perused the records.

7. At the outset, it may be said that the repeated representations would not give or extend the cause of action to the applicant in view of the judgement in the case of S.S.Rathore decided by the Supreme Court.

The first representation was made on 28.11.87. Other representations were made on 15.1.88, 3.7.1989 and 23.8.1989 but they would not give any fresh cause of action. The cause of action starts from 28.11.87. Even if his first representation is taken into account, the petitioner attained, according to him, majority on 25.1.88 but he says he made representation for his compassionate appointment for the first time on 28.11.87, i.e. when he was a minor.

8. Taking this 28.11.87 as the first date of cause of action, which when once starts, will not stop. We are concerned with the limitation as defined under Section 21 of the Administrative Tribunal Act. This OA is filed in March, 1992. The case is barred by limitation by 5 years.

9. Besides the relaxation of five years which is to be done by the competent authority and as it is not done in order to give him the benefit of compassionate appointment. In this case, there is no petition for condonation of delay.

10. We have seen the Annexures furnished by the respondents. The compassionate appointment can only be given by the General Manager and when the applicant becomes a major such case case should be kept pending only for 5 years but this 5 years period is also over even before he made his first representation. Compassionate appointment is not a vested right; he should satisfy relevant rules under the Scheme framed for the compassionate appointment.

11. As stated above, we are not satisfied with the contention of the applicant that he kept waiting for the last more than 5 years for making representation in 1987. Repeated representation do not give him fresh cause of action. Even the last representation is of 1988 but the OA is filed in the month of March, 1992.

12. We are not inclined to condone the delay and we dismiss the petition on the point of limitation.

Even otherwise, compassionate appointment is given to provide immediate succour for preventing distribution. In this case the family could carry on for more than twenty years after the death of the bread-winner in 1971. There is no case for compassionate appointment circumstantially also. No order as to costs.

MSB
(C.J. Roy)
Member (J)

SM
19.2.93
(S.P. Mukerji)
Vice Chairman