

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.855/93

Date of Decision: 11-5-93

Smt Janki & Ors. Applicants

Versus

Union of India & Ors. Respondents

JUDGEMENT

(delivered by Hon. Member (J) Shri C.J. Roy)

This application has been filed by the widow of late Shri Ram Nivas working as Gangman and is alleged to have died in harness on 17.10.85 in train accident. He left behind his widow, the first applicant, and no children. This application has been filed for appointment of her brother-in-law, who is the applicant no.2, on the ground that the near relative is also eligible for appointment on compassionate grounds as per the Railway circular No.E(NG)II/RC-1/1 Policy, dated 12.2.1990. According to the applicant, she is neither earning anything nor receiving any benefits and that she is an illiterate and in indigent circumstances. She approached the respondents for compassionate appointment of applicant No.2, who is a near relative. It is also submitted that at the time when the applicant's husband died, the second applicant was a minor and that after he became major, the

application for compassionate appointment was filed. The respondents have filed the counter affidavit. Hence this petition.

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2. The respondents have stated in their counter affidavit that the application is not maintainable as it is barred by limitation and the appointment of the near relative on compassionate ground is permissible only on certain circumstances which are not found in this case. The representation of the applicant dated 14.4.89 has already been replied vide letter dated 30.6.89, stating that her claim for the appointment of the second applicant on compassionate ground is not applicable as per the rules. Hence the petition may be dismissed.

3. I have heard the learned counsel for both parties and perused the documents placed on record. It may be seen that the first representation annexure A-3 is made in 1986. It does not appear date-wise but arranged in chronological order which states it is filed in 1986. Whether it is filed in 1986 or 1989, the OA is filed on 26.3.92. Therefore, according to the section 21 of the Central Administrative Tribunal's Act, the application is clearly barred by time. Inspite of that, in the interest of justice, I am going into the merit of the case. The learned counsel for the applicant drew my attention to the notification issued by the Railways, which reads as follows:-

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"4. In future, the eligibility of a 'near relative' for appointment on compassionate grounds will, therefore, be subject to the following grounds:

(i) Such appointment is not permissible where the Railway employee who has died in harness has left behind only the widow, with no son/daughter to be supported by her.

4. Therefore, it is clear that such appointment is not permissible where the Railway employee died in harness leaving behind his widow with no son and daughter to support her. There is no averment in the entire OA that the applicant who is her brother-in-law is living with her or will support her, except stating that the applicant no.2 did not continue the study after the death of his brother. The applicant claims to be an illiterate and that she waited for the minor to become major for appointment on compassionate ground. The Rule-4, cited supra does not provide for compassionate appointment of a near relative, who died in harness leaving behind only his wife but no son or daughter. Therefore, the eligibility for consideration of the applicant on compassionate grounds is not satisfied. I hold that the applicant has not made out his case. The case is not only barred by limitation but also dismissed on merits. No costs.

C.J. Roy
(C.J. ROY)
MEMBER(J)

11.05.93

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