

Central Administrative Tribunal
Principal Bench: New Delhi

5

OA No.186/93

Smt. Angoori Devi & Anr.

Date of decision: 17.05.93.

...Petitioners.

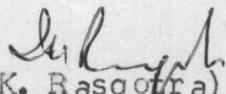
Vs.

Union Of India & Ors.

...Respondents

Coram: The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether reporters of local papers may be allowed to see the Judgement? No
2. To be referred to the Reporter or not? Yes


(I.K. Rasgotra)
Member (A)

6

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Versus

Union of India & Ors.

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Coram: The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioners

Shri B.N. Bharava, proxy
Counsel for Shri V.P. Sharma,
Counsel.

Judgement(Oral)

The case of the petitioner appears to have been heard at length on 11.5.93 but it was adjourned to 17.5.1993. Shri V.P. Sharma, learned counsel for the petitioner is not present today. I am, therefore, proceeding to decide the O.A. in regard to its maintainability for admission as well as on merits. The facts of the case are that Shri Govind Ram husband of petitioner No.1 and father of petitioner No.2 died on 22.6.1975 in harness while working on Western Railway. At the time of his death, the petitioner No.2 was of 10 years of age. The petitioner No.1 made some representations to the respondents for appointment on compassionate grounds. It is stated by the petitioner that she was verbally assured that when petitioner No.2 completes 18 years of age, the department will give him appointment. The petitioner No.2 completed 18 years in 1982 when petitioner No.2 made a representation on 10.11.1982 for appointment on compassionate grounds. He is said to have submitted all service particulars e.g. death certificate etc., as required on 18.12.1982. Thereafter the applicant waited but no reply was received. It is further submitted that the petitioner made representations in 1983, 1984 1985, 1986, 1987, 1988 etc. In August, 1988 the petitioner made a representation to the Railway Minister. There is a letter (Annexure A-3) dated 7.6.1988 according to which the

21

petitioner was advised that his case will be considered on receipt of the report of the Welfare Officer. On 30.11.1982 the petitioner was advised that since he has not approached the department in time, his case cannot be considered. The scheme of compassionate appointment as per Railway Board's circular letter dated 7.4.1983 filed alongwith the petition stipulates the following circumstances in which appointment on compassionate grounds are to be made:-

- (i) When Railway servants lose their lives in the course of duty or get so crippled that they cannot do any work;
- (ii) when Railway employees die in harness while in service before retirement.

2. The petitioner's case is covered by the condition No.2. The husband of petitioner No.1, as stated earlier, died in 1975. There is a provision in the Railway Board's letter No.E(NG)II/84/RC-I/172 dated 1.3.1985 to the effect that "where the widow cannot take up the employment Railway can keep the case for appointment on compassionate grounds open to enable consideration of appointment of a minor son when he attains majority even though at the time of occurrence of the event making compassionate appointment permissible, there is a daughter who has attained majority and/or a major son who is already employed." This is subject to the condition that:

"the minor son to be appointed will be attaining majority of age within a period of 5 years of the event of death which is the basis for appointment on compassionate grounds."

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3. In such cases where the children are minor the application nevertheless has to be made and the respondents are required to keep the case pending till the son becomes a major, i.e., attains the age of 18 years. The Railway Board's instructions further provide that "normally all appointments on compassionate grounds should be made within a period of 5 years from the date of occurrence of the event entitling the eligible person to be appointed on this ground. This period of 5 years may be relaxed by the General Manager subject to certain conditions." It is further provided that where death occurred more than 10 years back and also in cases where death took place between 5-10 years back but the conditions stipulated in paragraph V (a), i.e., the appointment should be made within 5 years, a compassionate appointment is not within the competency of the General Manager except in the case of loss of lives in the course of duty or getting crippled in the course of duty. Any exceptional cases have to be referred to the Railway Board. The Rules further provide priority to be observed in making appointment on compassionate grounds. The first priority is to the dependents of Railway employees who die or are permanently crippled in the course of duty. Second priority is to the dependents of employees who die in harness as a result of Railway or other accidents when off duty. Third preference is to the dependents of employees who (a) die in service or are totally incapacitated while in service....(b) are medically decategorised with less than 30 years of qualifying service...**

4. The case of the petitioner is not covered by the rules, as this is not an appointment which is sought within 5 years from the occurrence of the event nor does it fall in the high priority zone. The appointment comes only in the third priority. It can, therefore, be safely inferred that this is not an exceptional case

2

-4-

which could have been recommended to the Railway Board by the General Manager. [*Ref. Railway Board's Master Circular No.E(NG)II/90/RC-1/117 dated 12.12.1990 on Appointment on Compassionate Ground]. The petitioner on his reckoning has shown that he had made an application only in 1982. Thereafter he kept on making representations year after year. These representations do not extend the period of limitation. The petitioner should have agitated the matter in the proper forum at the proper time. it is also not the case of the petitioner No.1 that she had made an application for appointment at the proper time so that the case of petitioner No.2 could be considered on his attaining majority.

5. In view of the above the case is not only barred by limitation but also is not covered by the instructions issued by the Railway Board regarding appointments on compassionate grounds from time to time and compiled in the Master Circular, adverted to earlier. The O.A. is accordingly dismissed. No costs.

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(I.K. Rasgotra)

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Member(A)