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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 23rd DAY OF JULY 1997

Original Application No. 170 of 1997

HON. MR. JUSTICE B. C. SAKSENA, V. C.

1. Mohd. Shoeb, son of late Sri Abdul Jabbar Siddiqi, r/o 68 Dhoomanganj, Allahabad
2. Smt. Shamshunnissa, w/o late Shri Abdul Jabbar, r/o 68 Dhoomanganj Allahabad.

Applicants

By Advocate Shri Kuldeep Saxena

Versus

1. Union of India, through Ministry of Railways, new Delhi.
2. The General Manager, Northern Railway New Delhi.
3. The Divisional Railway Manager Northern Railway, Allahabad.

Respondents

O R D E R (Reserved)

JUSTICE B. C. SAKSENA, V. C.

Through this OA the applicant seeks issuance of an order or direction in the nature of mandamus commanding the respondents to give employment to the applicant no.1 on the post as per his qualification on compassionate ground.

2. The facts indicated in the OA in support of the relief claimed in short ~~are~~ as follows:

3. The applicant's father late Abdul Jabbar Siddiqi was working as a clerk in the railway department and he died on 4.12.1970 prematurely. The applicant further states that on 7.8.77 his mother moved an application for being given compassionate appointment to applicant no.1. The applicant's further case is that the railway department was treating the deceased Abdul Jabbar Siddiqi ^{as} deemed to have resigned from the department. This plea is ~~cut~~ cut out from the averment made in writ petition no. 15591 of 1985 filed

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by the applicant no.2 before the High Court. The said writ petition was transferred to this Tribunal and was registered as TA No. 1888 of 1987. The applicant's case is that in the said TA the Tribunal held that the case of deemed resignation is not tenable and that the widow was entitled to family pension.

4. This finding in the decision reentered in the TA ^{is highlighted} to plead that the hurdle in his appointment on compassionate ground was thus removed. The judgment in the TA, copy of which is Annexure 5 also goes to show that the claim for compassionate appointment to the eldest son of Late Abdul Jabbar Siddiqi viz Mohd. Khubaid was also considered since such a relief had been prayed for and the learned Single Member took the view that Mohd. Khubaid was already 32 years of age and the application for appointment on compassionate ground is barred by limitation and the prayer was rejected. This OA has been filed in the year 1997 seeking compassionate appointment of the younger son Mohd. Shoeb. In the writ petition filed in the year 1985 Smt. Shamshunnissa, applicant no.2 in this OA, had claimed compassionate appointment of her elder son Mohd. Khubaid on the ground that he had attained majority. Suprisingly, the application, copy of which is Annexure 3, ^{shows} that a representation made in 1977 the age of Mohd. Shoeb applicant no.1 of this OA was shown to be 19 years. **Had** the said representation been made, there is no explanation why in the writ petition filed in the year 1985 claim for compassionate appointment of the elder son has been made. In any event there is no explanation for the inaction on the part of the applicants to pursue the matter for compassionate appointment of applicant no.1 since after 1977 and almost 27 years after the death of applicant no 1's father. He died in the year 1970 and this OA had been

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filed in the year 1997. The OA lacks merit and is highly barred by time therefore deserves to be dismissed. It is accordingly dismissed summarily.

Balakrishna

VICE CHAIRMAN

Dated: July 22nd 1977

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