

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

....

original Application No. 642 of 1997

this the 2nd day of January 2002.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Smt. Lakharni Devi, w/o late Sri Shiv Murti, R/o Village  
Daitha, Post Chiraigaon (Udaipur), District Varanasi.

Applicant.

By Advocate : Sri Anil Dwivedi.

Versus.

1. Union of India through the Secretary, Ministry of Railways, Govt. of India, New Delhi.
2. The Divisional Rail Manager, Eastern Railway, Mughalsarai.
3. The Senior Divisional Engineer, Eastern Railway, Mughalsarai.

Respondents.

By Advocate : Sri Amit Sthalekar.

ORDER (ORAL)

The grievance of the applicant in this case is that his son was minor when his father died in harness in the year 1977. Thereafter he attained majority on 30.12.90 that and before his wife of the deceased gave an application for giving compassionate appointment to her son vide her application dated 20.4.1987. The applicant has submitted that the son is the 4th issue as three children of the deceased were daughters and before the son attained the majority, the mother had applied for compassionate appointment. However, since no reply was given by the authorities, nor they were considered the case of the applicant, the applicant has no other alternative but to file the present O.A.



2. The O.A. is opposed by the respondents, who have submitted that the case of the applicant was considered by the competent authority and the same was rejected vide letter dated 29.7.93 (Annexure CA-2 to the Counter) on the ground that the case was time barred and son of the deceased was 4th child. Both the counsel have relied on the instructions issued by the Railway Board. According to the applicant, <sup>counsel's</sup> the son attains majority after 10 years from the date of death of his father, the case should have been referred to Railway Board, whereas according to the respondents, <sup>counsel's</sup> at best the case could have been considered if the child had attained the majority within 10 years from the date of death of the deceased employee.

3. I have heard both the counsel and perused the pleadings as well.

4. Admittedly, the applicant's husband had died in the year 1977 when the son of the deceased was still minor, but there were three children elder to him, who were daughters of the deceased employee. Neither the widow of the wife i.e. the present applicant nor the daughters of the deceased had claimed compassionate appointment and it was only in the year 1987 the widow of the deceased employee had sought compassionate appointment for her son namely Om prakash, who was admittedly minor in the year 1987, therefore, naturally he could not have been granted appointment as Om prakash was still minor. Even otherwise, as per the applicant's own averments, there were three daughters of the deceased, who had been married after his death, which clearly shows that the condition of the family was not so bad and they were not only able to manage <sup>affairs of</sup> their ~~faces~~ family from 1977, but were also able to perform the marriage of three daughters. Therefore, I would agree with the submissions of the respondents that the condition of the family was not so bad which warranted the consideration of the 4th child compassionate appointment <sup>for</sup>

after ten years or so. The Hon'ble Supreme Court has repeatedly held that compassionate appointment cannot be sought as a matter of right and the person has only a right for consideration. The instructions makes it clear that in respect of dependants of the employees who die or are permanently crippled in the course of duty, General Managers could consider appointment of first ward (son/daughter) even beyond 10 years from the date of death, till they attain majority. In the instant case, admittedly, the first ward ~~who~~ happened to be a daughter <sup>R</sup> ~~who~~ never applied for compassionate appointment and since the compassionate appointment was only sought for 4th child, who was still minor in the year 1987 when the application was filed, naturally, he could not have been given appointment. Accordingly, I do not find any merit in the O.A. and the same is dismissed with no order as to costs.

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MEMBER (J)

GIRISH/-