

BESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 550 of 1998

Allahabad, this the 16th day of July 2003

QUORUM : HON'BLE MRS. MEERA CHHIBER, MEMBER J

1. Smt. Mangri Devi W/o Late Chunni Lal
2. Prabhu Nath S/o Late Chunni Lal
Beth R/o 6/18-B, Mohalla, Anand Nagar,
Naini, Allahabad.

... ..Applicants.

(By Advocate - Shri A.Kumar,
Shri C.P.Gupta)

Versus

1. Union of India, through General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Divisional Railway Manager, Northern Railway,
Allahabad.
3. Director Establishment,
Ministry of Railway, Railway Board,
Rail Bhawan, New Delhi.

.. .. Respondents.

(By Advocate : Shri A V Srivastava)

O R D E R

HON'BLE MRS. MEERA CHHIBER, MEMBER J

This O.A. has been filed by widow and son of late
Shri Chunnilal claiming the following relief(s) -

- "i) The Tribunal may be pleased to quash
the impugned letter dated 13.5.1996
issued by Divl. Railway Manager, Nor-
thern Railway, Allahabad (Annexure-A-1)
being arbitrary and discriminatory.

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- ii) The Tribunal further be pleased to direct the Respondents to appoint the applicant no. 2 on compassionate ground vice his father late Sri Chunni Lal.
- iii) Any other order or direction which is deemed fit and proper in the circumstance of the case be issued in favour of the applicant.
- iv) Cost of the application may be awarded in favour of the applicant. "

2. It is submitted by applicants that late Shri Chunnilal died in harness on 26.11.1976 leaving behind his widow and minor son Prabhu as his eldest son Shri Pratigya Lal was already employed during life time of Chunnilal but he was living separately. After the death, widow applied & was appointed on casual basis as Seasonal Hot Weather Staff/Waterman vide letter dated 13.4.1977 but she was not allowed to work in the next season. In the meantime younger son became major so she applied for giving Compassionate appointment to him. The same was however rejected on 3.7.89 on the ground that eldest son was employed and she was getting pension also. Being aggrieved they filed O.A.no.368/90 which was decided on 24.11.92 by holding as under :

"....If any vacancy is available and similarly placed persons whose position is more worse, are not waiting for their turn to come, when the case of the applicant can be considered for appointment on compassionate ground....."

3. Since direction was not complied with, she filed C.C.P.No. 1628/93 which was dismissed on 30.3.98 as Railway Board had rejected the case vide letter dated 13.5.96. Respondents also filed R.A.No. 951/93 which too was dismissed. It is the letter dated 13.5.96 which has been challenged in the present case. By this letter

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applicant was informed that the request itself was barred by limitation as application was made for considering the youngest son after 2 years from the date he attained majority whereas as per letter dated 18.4.85 request should be made within 6 months from the date of attaining majority of the first son/daughter whereas in this case applicant no. 2 was the 7th ward/2nd son. Moreover their condition is much better than others as first son was already employed and is still working, therefore, keeping in view various judgments of Hon. Supreme Court his case is not covered under the rules (Page 10). It is submitted by applicant that on receiving this letter, they represented to the Railway Minister but since no reply came they were forced to file this O.A.

4. It is submitted by applicant's counsel that time limit has been extended to 20 years. He has also relied on an identical case where Railway Board itself had written on 13.5.96 that there is no bar to consider the case on compassionate grounds of ward if widow is already in service (Annexure/A4). He has, thus, submitted that respondents are giving discriminatory treatment to the applicant. Since the reasons for rejecting the claim are bad in law, the letter dated 13.5.96 is liable to be rejected.

5. I have heard both the counsel and perused the pleadings as well. In the 1st O.A. applicant had taken all these points but yet Tribunal only observed that in

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case more deserving cases than applicant are not waiting then the case of applicant may be considered for appointment on compassionate grounds. Now Railway Board after reconsideration has reiterated that looking at the family circumstances it cannot be said to be a case where family is in total indigent circumstances. Moreover there are people with worse conditions waiting for compassionate appointment as there are widows/wards still waiting for compassionate appointment even though there is no other earning member in their family so applicant's condition is better than many other cases.

6. It goes without saying that compassionate appointment cannot be sought as a matter of right and all that a person can claim is a right of consideration.

7. In the instant case admittedly applicant's case has been considered second time by the competent authority as per the direction of this Tribunal in G.A.No. 368/90. If there are more deserving cases than applicant still waiting for appointment naturally applicant cannot claim that all others should be ignored. In applicant's family, admittedly, the eldest son was already employed whereas other wards have no earning member at all so definitely they would have a better claim than applicant. Even otherwise since Tribunal had also directed to consider giving him compassionate appointment if any vacancies were available and similarly placed persons whose position is

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more worse are not waiting for their turn, ^{to come so naturally} applicant could have been considered for compassionate appointment, only if no other ward was waiting and not otherwise.

8. It would be relevant to quote few latest judgments given by Hon'ble Supreme Court on the point of Com-~~passionate~~ appointment. In 1997(5)SCC. 301 and J.T. 2001(9)SC 73 Hon'ble Supreme Court held that if one heir is already in employment, compassionate appoint^{ment}/cannot be provided to others. In 1999(1)A.I.S.L.J. SC 114 Hon. Supreme Court held that compassionate appointment cannot be sought as either a lien or as a line of succession and cannot be given after long years of death of employee. Similarly in 2000(7)SCC 19203 Hon'ble Supreme Court held that delayed application for compassionate appointment on attaining majority was rightly rejected. It would also be relevant to quote from the judgment of Umash^{Kumar}/Nagpal wherein Hon'ble Supreme Court held as under : -

" Compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

9. It is also settled by now that delay is fatal in the matter of seeking compassionate appointment because compassionate appointment is to be as an exception to tide over the sudden crisis left by the death of sole earning member in the family whereas in the instant case admittedly deceased had died in 1976

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meaning thereby 27 years have already gone by. If the family could survive for 27 years it definitely cannot be said that family was in total indigent condition. Therefore, I find no illegality in the order passed by respondents. Applicant has sought a direction to the respondents to appoint her son on compassionate appointment, I am afraid courts cannot give direction to give appointment to an individual as compassionate appointment can be given to only most deserving cases.

10. In view of the above O.A. is found to be without any merit. The same is accordingly dismissed with no order as to costs.



Member J

Brijesh/-