

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1430 of 1998.

Allahabad this the 21<sup>st</sup> day of April 2004.

Hon'ble Mrs. Meera Chhibber, Member-J.

Aneesha Begum  
W/o Late Shri Zahid Hussain, Khan,  
Resident of Mohalla Chhota Khudaganj,  
Pilibhit District Pilibhit.

.....Applicant.

(By Advocates: Sri T.S. Pandey/

Versus.

1. Union of India  
through Secretary,  
Ministry of Railway,  
New Delhi.
2. The General Manager (Karmik)  
North East Railway Gorakhpur.
3. Divisional Railway Manager (Karmik)  
Samastipur, Bihar.

.....Respondents.

(By Advocate: Sri A.K. Gaur)

O\_R\_D\_E\_R

(Hon'ble Mrs. Meera Chhibber, J.M)

By this O.A., applicant has sought the following  
relief(s):-

- "(i) to issue a writ order or direction quashing the impugned orders dated 04.07.1996 and 8.9.97.
- (ii) to issue a writ, order or direction in the matter of Mandamus directing/commanding the respondents to appoint the son of the applicant namely Nasir Khan on an appropriate post according to his qualification etc. forthwith.
- (iii) to issue a writ, order direction in the nature of mandamus commanding/directing the respondent to appoint the son of the applicant with effect from the year of 1992, on an appropriate post according to his qualifications etc. and to pay his entire back salary etc. will all other consequential benefits".

2. It is submitted by applicant that her husband died on 26.10.74 when her only son Nasir Khan was 26 days old





as he was born on 01.10.1974, when he became major in 1992, applicant gave an application on 15.10.1992 (Annexure 1) followed by number of other applications dated 12.02.93, 27.12.93, 18.2.1994 and 10.09.1994. She sent a registered letter also on 15.02.1995 (Annexure 6) followed by letter dated 5.6.1996 but ignoring all her representations her claim was rejected ex-parte on 4.7.96 on the ground "it is an old case". She immediately met respondent No.2 who assured her that job will be given but was surprised when she was informed vide letter dated 8.9.97 that her case has been rejected as she had not given application within 2 years after son attained majority. Applicant has challenged these orders on the ground that she had applied on 15.10.1992 itself which was very much within 2 years, therefore, the reasoning given while rejecting her case is wrong and is liable to be quashed. Even otherwise as per Railway Board's letter dated 22.06.1978 there was no time limit for claiming compassionate appointment (Annexure 8). Being aggrieved she gave a representation to the Hon'ble Minister but the same has not been decided till date, therefore, she had no other option but to file the present O.A. on 11.12.1998.

3. Respondents have opposed the O.A. on the ground that O.A. is barred by limitation as such liable to be dismissed on this ground itself.

4. On merits they have submitted that application was received in the office 1st time on 28.05.96 and 10.06.1996 which was beyond the stipulated period because as per service record employee had a son of 2 years 9 months and 13 days old at the time of his death on 26.10.74 which is also evident from Annexure R-1 ~~and~~ declaration <sup>(given by applicant)</sup> at the time of taking family pension.





5. They have further submitted that deceased employee died at Barauni which comes under the territorial jurisdiction of Patna Bench, therefore, it is liable to be dismissed on this ground as well. They have stated categorically that her application dated 15.10.92 was neither received in office nor is available in her case file. In any case her case has been duly considered by the Competent Authority who did not find any justification to grant compassionate appointment. They have thus submitted that O.A. may be dismissed.

6. Applicant has filed School Leaving Certificate of Nasir Khan to show he was indeed born on 01.10.1974, <sup>at the time of receiving it</sup> therefore, mere declaration <sup>on pension</sup> ~~time~~ is of no consequence. She has also annexed U.P.C postal receipts to show that she had sent representation in 1992, 94 & 95 as well.

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

8. Counsel for the applicant strenuously argued that since school leaving certificate shows the date of birth, that is most authentic document and wrong declaration given by an illiterate person at the time of settlement dues cannot come in the way of applicant for grant of compassionate appointment. In law the position is that a person who signs a document or affixes his/her thumb impression on a document is expected to know the contents of the document and a mother would always know the correct date of birth of the child, therefore, she cannot get away from the declaration given by her at the time of settlement dues by saying that somebody else had filled the form. After all she is bound by the declaration given by her but the point here is whether applicant would be entitled to the substantive





relief of getting compassionate appointment even if this declaration is ignored, the answer is No. Admittedly applicant's husband died on 26.10.1974 at which time her son is claimed to be only of 26 days but she could always apply for herself. She did not do that. Thereafter, as per applicant's own showing son attained majority in 1992. Even if her averment is accepted for the sake of argument, her cause of action arose in 1992, therefore, if Department did not do anything and they were really in a financial crunch, they ought to have approached the court atleast immediately, thereafter, within 01 year or latest within 18 months as per section 21 of the A.T. Act 1985 but no such effort was made. As per applicant's own case they kept on giving applications and reminders which itself shows that their condition was not so bad. They have filed the present O.A. only on 11.12.1998 that is 6 years after the son had attained majority, even according to the applicant. At this juncture it would be relevant to quote the judgment of Hon'ble Supreme Court reported in 1996 (1) SCC 301, ~~1996 (4) SCC 23~~, 1997 (8) SCC 85 wherein it is clearly held that delay is fatal in cases of compassionate appointment because if a person could survive for so long without any assistance from the department that itself is sufficient ground to reject the claim for compassionate appointment as compassionate appointment cannot be sought as a line of succession.

9. Counsel for the applicant submitted that he had filed the O.A. to challenge the order dated 08.9.97. It is all right for the purposes of limitation as far as maintainability of the O.A. is concerned but here we are not discussing the maintainability of O.A. or the point of limitation but we are on the question whether the substantive relief of directing the respondents to appoint him on compassionate ground can be given or not.






10. As I have observed above such a relief cannot be given because of delay in approaching the court as that would defeat the very object of compassionate appointment.

The object of granting compassionate appointment was to tide over the sudden crises with which the family members are faced due to the sudden death of sole bread earner in the family. The very fact that the family had been able to survive from 1974 to 1998 without any problem itself is a good ground to reject the claim of applicant for being appointed on compassionate grounds.

11. In view of the above discussion no substantive relief can be given to the applicant. The O.A. is, therefore, dismissed with no order as to costs.

  
Member-J.

shukla/-