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**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 700 of 2004

Wednesday, this the 16th day of September, 2009

Hon'ble Mr. Ashok S. Karamadi, Member (J)

1. Smt. Kishuni Devi widow of Late Ram Lal urf Ram Lal Yadav, Aged about 42 years r/o Village Shankerpur (Ialpur), P.O. Jalalpur, District-Jaunpur.
2. Brijesh Kumar, son of Late Ram Lal Yadav, r/o Village Shankerpur (Ialpur), P.O. Jalalpur, District.- Jaunpur.

Applicants

By Advocate: Sri Sudama Ram

Vs.

1. Union of India through General manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Lucknow.
3. Sr. Divisional Personnel Officer, Northern Railway, DRM's Office, Lucknow.
4. Sr. Section Engineer, (P. Way), Northern Railway, Jaunpur.

Respondents

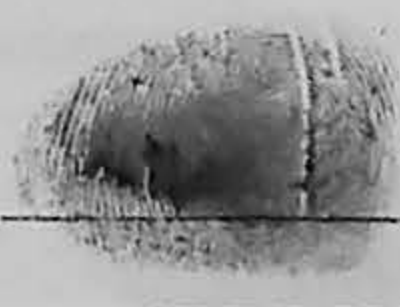
By Advocate: Sri S.K. Rai

ORDER

By Mr. Ashok S. Karamadi, Member (J)

This O.A. was filed seeking directions to the respondents for grant of family pension, and to consider the case of applicant No. 2 for compassionate appointment.

2. The applicants have filed M.A. No. 1032 of 2007 for condonation of delay in filing the Original Application, the



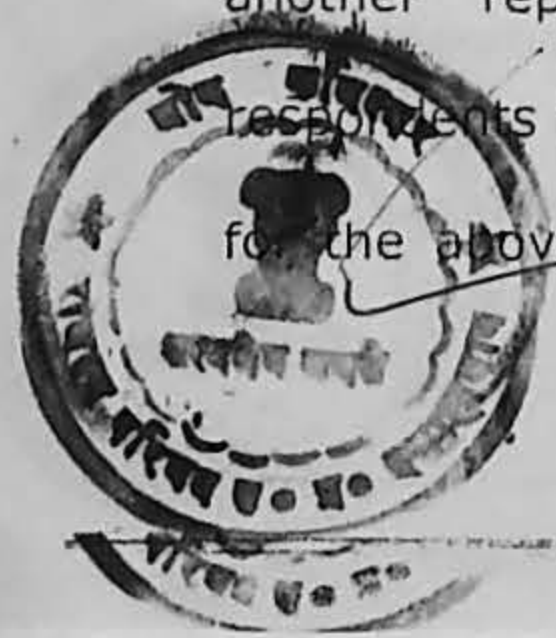
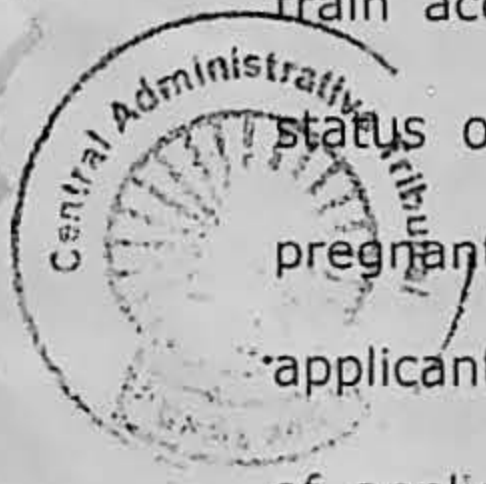
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respondents have filed objection to the M.A. as well as Counter Affidavit to the main O.A., and stated that this O.A. is not maintainable on the ground of delay and laches.

3. The learned counsel for the applicants and the respondents were heard regarding condonation of delay as well as on merits of the O.A.

4. The brief facts of the case are as under: -

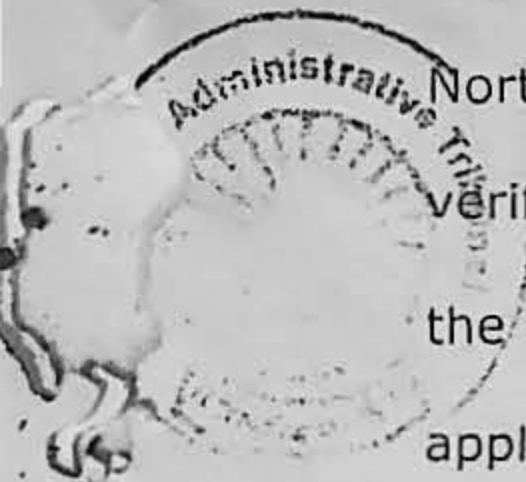
The applicant is a widow of Late Ram Lal, and applicant No. 2 is the son. The deceased Ram Lal who was working as a temporary Gangman under CPWI/SSE (P.Way), Northern Railway, Jaunpur, run over and killed while going on duty on 29.09.1982 in train accident. He was appointed on 12.01.1978 and attained status of temporary railway servant. The applicant No.1 was pregnant at the time of death of deceased Ram Lal, later on applicant No. 2 born, thereafter on attaining the age of majority of applicant No. 2, applicant No. 1 applied for compassionate appointment of her son on 04.01.2002. The applicants further state that the respondents' department have given family pension and other pensionary benefits except compassionate appointment to similarly placed Smt. Mandodari Devi, , bringing to those facts in representation dated 23.10.2003 (annexure-3) for similar benefits of family pension and other pensionary benefits to her also. As there was no response from the respondents' side, again another representation was sent on 29.12.2003, as the respondents failed to consider their grievance, this O.A. was filed for the above relief (s). In the application for condonation of



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delay also, the applicants state that in view of the assurance given that her case will be considered by the respondents, and due to financial constraints after making representations to the respondents, as no reply received from the respondents this O.A. was filed, for the above said reasons, seek condonation of delay in filing the O.A.

5. The respondents stated that the cause of action arose to the applicants on 28.09.1982 when the deceased Ram Lal died, and the present O.A. was filed after 22 years from that date. All the records pertaining to the period of alleged relief have already been weeded out in compliance of Railway Board's direction regarding weeding out of records which was circulated by the Northern Railway, as such, respondents are not in a position to verify the correctness of the statement made by the applicants in the O.A. as the O.A. was filed without condonation of delay application initially, after the preliminary objection was filed by the respondents, the applicants were chosen to file the application for condonation of delay. Since the applicants have not approached within the period prescribed and therefore, the grievance of the applicants shall not be entertained on the ground of considerable delay and laches, as the applicants have not approached within reasonable time, relying upon the decisions on the same sought for dismissal of the O.A. The respondents further stated that the case on which applicants mainly rely, is not applicable to the facts of the applicants' case, as the facts and the consideration in the case of 'Mandodari' are totally different, and



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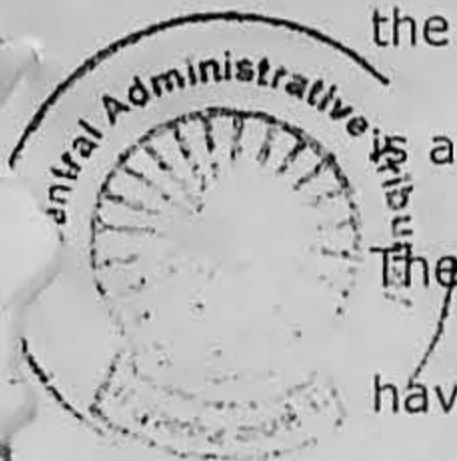
cannot be compared with the applicants' case, on this ground also seeks dismissal of the O.A.

6. Heard the learned counsel for the parties and perused the pleadings and materials available on record.

7. Admittedly, the applicants have filed this O.A. on 04.06.2004, the deceased Ram Lal was died on 29.09.1982, that being so the applicants should have taken recourses to approach the Tribunal for their grievances within a reasonable time, since the applicants have not approached the Tribunal within the reasonable time, having regard to the same the grounds on which the applicants are seeking condonation of delay in filing the O.A.

is a relevant factor for consideration as the delay is abnormal one. The applicants state that they came to know that the respondents have considered similarly placed i.e. of the deceased Ram Lal, in the case of Mandodari and, therefore, the applicants approached the respondents for consideration of their grievances, as the respondents have not responded for their representation hence, they have filed the present O.A. It is seen from the order produced by the applicants themselves regarding the Mandodari case and the objection taken by the respondents, that the case of the Mandodari is on different footing i.e. that the husband of Mandodari was drawing regular pay scale for about more than 10 years as temporary employee and he was also screened for regularization, her husband was also died on 02.03.1996 in railway hospital, the O.A. was filed within three years in 1999.

Further having regard to the fact that belated representation and



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subsequent representations of the applicants does not constitute a sufficient cause for condonation of delay. In view of these facts and circumstances, the present O.A. which is filed belatedly is not maintainable on the ground of laches and the explanation given by the applicants are not acceptable on over all consideration of facts and circumstances of the case, accepting the contentions of the respondents, the grounds urged by the applicants are rejected, having regard to the proportion of law laid down by the Hon'ble Supreme Court reported in **1990 SCC (L&S) 50 S.S. Rathore vs. State of M.P.**, wherein it is stated that repeated representations will not extend the period of limitation. The learned counsel for the applicants has relied upon the decisions mentioned as under: -



- (i) ATJ 2006 (2) 260 Smt. Anita Devi vs. Union of India and Ors.
- (ii) ATC (1996) 32 432 Padma Biswas vs. Union of India and others;
- (iii) O.A. 158 of 2003 (Allahabad Bench) decided on 03.08.2005."

On perusal of the decisions cited by the applicants, it is clear that the facts and circumstances of the present O.A. are different from the one considered in those cases and as such the same are not applicable to the present case.

8. In view of the foregoing reasons, the M.A. for condonation of delay is rejected, consequently the O.A. is dismissed. No cost.

Sd/ J.M.

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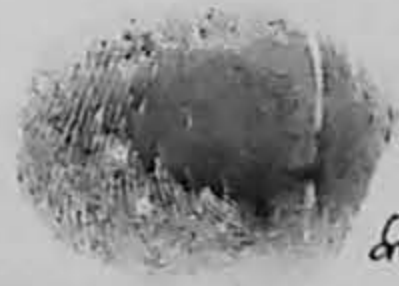
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Central Administrative Tribunal
Allahabad Bench Allahabad

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