

Open Court.

Central Administrative Tribunal
Allahabad Bench Allahabad.

Original Application No.79 of 2004.

Allahabad this the 05th day of February, 2004.

Hon'ble Mr. A.K. Bhatnagar, Member-J.

Arun Kumar Tewari
son of late Ram Kripal Tewari,
R/o Belwar, Sujanganj, Jaunpur.

.....Applicant.

(By Advocates: Sri P.K. Sinha/
Sri P.K. Mishra)

Versus.

1. Union of India
through General Manager,
Central Railway Mumbai C.S.T.
2. Central Railways through Divisional
Regional Manager, Jabalpur (M.P)
3. General Manager,
Central Railways,
Mumbai C.S.T.

.....Respondents.

(By Advocate : Sri K.P. Singh)

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(By Hon'ble Mr. A.K. Bhatnagar, J.M)

This O.A. has been filed under section 19 of
Administrative Tribunals Act 1985 alongwith Misc.
Delay Condonation Application No.482 of 2004 for
condoning the delay in filing the present O.A.

2. By this O.A., the applicant has prayed for quashing the impugned order dated 23.02.2001 (Annexure 1) issued by office of Divisional Railway Manager (P) Jabalpur by which the claim of the applicant for compassionate appointment has been rejected and further sought a direction to the respondents to appoint the applicant under the provision of Dying in Harness Rules.

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3. The brief facts of the case as per the applicant are that the applicant's father late Sri Ram Kripal Tiwari was working as Assistant Station Master at Shankergarh Railway Station under Central Railway and was murdered while discharging his duties on 16.07.1983. The applicant moved an application for compassionate appointment on 13.10.2000 which was rejected by respondent No.2 on 23.02.2001 stating therein that as one nephew of the deceased namely Sri Janardan Prasad Tiwari has already been given service on account of compassionate ground so the case of the applicant cannot be considered as per Rules. Aggrieved by this, the applicant's mother and applicant represented on 12.03.2001 and 12.05.2003 (Annexures 2 and 3) and sent a legal notice also filed as Annexure 4 to the O.A. As no action was taken by the respondents on the representations and legal notice sent to them hence the applicant filed this O.A.

4. Learned counsel for the applicant submitted that under the Dying in Harness Rules, the applicant being the son of deceased employee is entitled for appointment on compassionate ground. It is further submitted that the Authorities have acted illegally and in arbitrary manner by not deciding the representation of the applicant and in appointing one Sri Janardan Prasad Tiwari alleged nephew of the deceased in place of the applicant.

5. Learned counsel for the respondents raised a preliminary objection at the initial stage that the O.A. filed by the applicant is grossly time barred and is liable to be rejected on this ground alone.

6. I have heard counsel for the parties, considered their submissions carefully and perused the records.

7. Admittedly, the father of the applicant died in the year 1983. The applicant moved an application for

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appointment on compassionate ground on 13.10.2000 which was rejected vide order dated 23.02.2001. The applicant admittedly applied 17 years ~~of~~ after the death of his father which clearly shows that family of the deceased was not in indigent condition. It appears that the applicant suddenly woke up after this long gap and filed application for appointment on compassionate ground. Even for the arguments sake if the order of rejection dated i.e. 23.02.2001 is taken to be considered for commutting the period of limitation then the applicant should have filed the O.A. within one year i.e. upto February 2002 as provided under section 21 of Administrative Tribunals Act 1985, while the applicant has filed this O.A. on 16.01.2004. The applicant had continuously been representing before the Authorities ,as averred in para 4.7 of O.A. which certainly does not help the applicant in enhancing the period of limitation. The legal position is well settled in this regard that repeated representations do not extend the period of limitation. The applicant was about 28 years of age at the time of filing of the O.A. He could have agitated the matter in the proper course as soon as he became major. The applicant has also not made the alleged nephew of the deceased Janardan Prasad Tiwari as a party in the array of the respondents and the O.A. is liable to be rejected only on the ground of non-joinder of necessary party. Moreover no sufficient convincing grounds have been advanced in the Delay Condonation Application which could be considered for condoning the delay. In my opinion under above circumstances, the O.A. is liable to be rejected at the initial stage itself without calling for counter as grossly time barred.

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8. In view of the above discussions, facts and circumstances, the Delay Condonation Application No. 482/04 is rejected.

9. Accordingly, the O.A. is dismissed being grossly time barred and for non-joinder of party also.

No order as to costs.


Member-J.

Manish/-