

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 6th day of AUGUST 2004.

Original Application no. 818 of 2004.

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

1. Smt. Panna Devi, widow of Late Ram Sumer,
R/o Vill Lalpur P.O. Jalalpur, Distt. Jaunpur.
2. Shiv Pujan, s/o Late Ram Sumer,
R/o Vill Lalpur, P.O. Jalalpur,
Distt. Jaunpur.

... Applicants

By Adv : Sri S. Ram

V E R S U S

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. Divl. Engineer, (DEN), Northern Railway,
Varanasi.

... Respondents

By Adv : Sri A.K. Gaur

ORDER

Mrs. Meera Chhibber, JM.

By this OA the applicants have sought the following
reliefs :-

"i. The Hon'ble Tribunal may graciously be pleased to direct the respondents to grant family pension, and other pensionary benefits to the widow applicant No. 1 with arrears and 12% interest on delayed payment of family pension and pensionary benefits etc.



...2/-

ii. The Hon'ble Tribunal may further be pleased to direct the respondents to consider the compassionate appointment to her son of the deceased railway servant i.e. applicant no. 2 who has become major now.

iii. Any other writ or order or direction which the Hon'ble Tribunal deems fit and proper in the circumstances of the case may also kindly be issued in the interest of justice

iv. Cost of the Application may also be awarded."

2. It is submitted by the applicant that her husband was engaged as casual Gangman on 24.3.1973. His medical was got done in April 1974. He attained temporary status and was working continuously till his death on 16.03.1983. It is submitted by the applicant that her husband was again sent for medical examination on 03.08.1982 as he was reported to be sick. Thereafter, he was declared medically unfit for B-I category (Ann A1). On appeal made by the husband of the applicant, his case was referred to the DNE, Northern Railway, Lucknow for re-medical examination and he was declared fit for duty and, thereafter, he worked continuously till 16.08.1983. After the death of applicant's husband there was no one to guide the applicant and her son was also minor, therefore, she did not apply for compassionate appointment. However, she has only a small piece of land and no other source of livelihood. Her son attained majority in the year 1988. Thereafter, she gave a representation on 27.2.2000 to grant compassionate appointment to her son. No reply was given to her inspite of representations given to the Minister and the D.R.M. She gave an application on 07.04.2004 for release of family pension and for considering her son for compassionate appointment, but till date no reply has been given to her, therefore, she has no other option but to file the present OA.

3. Learned counsel for the respondents, on the other hand,

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that opposed this OA on the ground/she has annexed only the document which shows that her husband was declared unfit on 3.8.1982 and the appeal on the basis of which her case was referred to the DNE, Northern Railway Lucknow (Ann A1 & A2). There is nothing on record to show that her husband was declared medically fit. Moreover, the only representation which has been annexed by the applicant is dated 27.02.2000 and 07.04.2004. Therefore, this OA is liable to be dismissed on this ground alone.

4. I have heard learned counsel for the parties, considered their submissions and perused the pleadings as well.

5. Admittedly, the applicant's husband died on 16.03.1983. No application for compassionate appointment was made at that time. Her son, admittedly, as per applicant's averment, attained majority in the year 1988, but as per applicant she sent the representation only on 27.2.2000. Thereafter, she kept on giving representations, as per applicant's own saying. The law is well settled that mere representations do not extend the period of limitation. The cause of action in this case arose in favour of the applicant in the year 1983 for grant of compassionate appointment, if any, in her favour. Admittedly, no effort was made by her to apply for compassionate appointment at that stage. The second cause of action would have arisen in her favour when her son attained majority. Even at that stage also, no efforts was made by the applicant to give an application for compassionate appointment immediately after her son attained said majority. Even if her family was to be below the poverty line, she ^{should have given a} ~~was~~ the first representation in the year 2000 ~~and~~ ^{as she} thereafter, did not file any OA but kept on giving representations. She has filed the present OA only in the year 2004 (July), which

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itself shows that they are not in indigent condition because if she could survive so long without any assistance by the department that itself shows that the family was not in ^{an} indigent condition and the basic object of tiding over the crises ^{wiped out, is} gets ~~settled~~. ^{set} The Hon'ble Supreme Court repeatedly held that the delay is very fatal ^{is} in case of compassionate appointment. Therefore, the request of applicant for grant of compassionate appointment is rejected.

6. The applicant has next contended that she would be entitled for family pension. The only representation which she has annexed is dated 07.04.2004 (Pg 27), which is reported to have been sent by registered post. The applicant has annexed the UPC certificate and AD card for having sent this representation to the General Manager, Divisional Railway Manager, Divl Engineer (DEN) and SSE (Works)/IOW. Even if this representation is taken into consideration in view of the judgment of Hon'ble Supreme Court in case of Mastan ~~Been~~, it is seen that only three months have passed and since it is such an old case, naturally it will take some time for consideration before passing any final orders. Therefore, to that extant, the request of the applicant for grant of family pension is premature at this stage and the OA is liable to be dismissed on this ground also. However, now ~~that~~ ^{that} the applicant has approached this Court and has already given a representation to the authorities on 07.04.2004 for release of family pension, this OA is being disposed of at the admission stage itself without going into merits of the case by directing the respondent no. 4 to verify the facts from the records and to give suitable

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reply to the applicant within a period of four months from the date of communication of this order.

7. With the above direction this OA is disposed of at admission stage ~~itself~~ with no order as to costs.



Member-J

/pc/