

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 864 of 2004

Allahabad this the 17th day of August, 2006

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

1. Smt. Ajudhi aged about 65 years wife of late Shri Lalpati, resident of Village Piprai, Tehsil and District Mahoba.
2. Mohar Singh aged about 37 years Son of Late Shri Lalpati, resident of Village Piprai, Tehsil and District Mahoba.

Applicants

{By Advocate Shri R.K. Nigam}

Versus

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.

Respondents

{By Advocate Shri Dhananjay Awasthi}

ORDER

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

Through this O.A. the applicants have prayed for a direction to the respondents to issue compassionate appointment in Class IV Group 'D' category in favour of applicant no.2.

2. The brief facts giving rise to this O.A. as per the applicants are that husband of applicant no.1 died in harness on 07.09.1981 while working on the post of Parcel Porter at Mathura Junction. After the death of husband of applicant no.1, her Devar-Shri Ram Akhtiyar Singh staked his claim by misrepresenting in the

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Divisional Railway Manager's Office that he is the only near relative of the deceased. By letter-dated 16.05.1983, she was asked to give her consent for the said compassionate appointment. She was also asked for producing a legal heir certificate in favour of so-called Devar-Ram Akhtiyar Singh. Thereafter in December 1983, the applicant no.1 informed the respondents that her deceased husband was surviving by 3 sons and clarified that her Devar played a fraud to her in getting the compassionate appointment. The applicant no.2 of this O.A. moved an application on 07.06.1986 for having the compassionate appointment being the elder son of the deceased. An affidavit to this effect was also submitted by applicant no.1. Thereafter, she has been sending repeated representations since 17.06.1992 continuously for giving compassionate appointment to her son but the respondents have not taken action. She finally submitted the last representation on 10.05.2004. When no action was taken, she filed the present O.A. Learned counsel for the applicant submitted that Devar of applicant no.1 played fraud for obtaining the compassionate appointment for himself. When she came to know about the claim of her Devar, she clarified the position to the department by letter of December 1983. Learned counsel further submitted that inspite of so many representations sent to the department no action has been taken by them.

3. The respondents filed their counter affidavit, which was followed by the rejoinder affidavit of the applicant.

4. Counsel for the respondents invited my attention on paragraph no.3, 6, 8, 10, 11 and 12 of the counter affidavit and submitted that the present O.A. has been filed by the applicant after a long gap of more than 20 years that too without filing any delay condonation application. Therefore, the O.A. is liable to be dismissed being barred by Section 21 of the Administrative Tribunals Act. Learned counsel further submitted that on

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verification also by the department, it was found that she applied for compassionate appointment fraudulently declaring his devar-Ram Akhtiyar Singh as his elder son and the Welfare Inspector who conducted the inquiry, reported that the person who applied for compassionate appointment was her devar and not her elder son. The report of the Welfare Inspector dated 25.02.1983 and 01.08.1984 have been filed as annexure CR-1 and CR-3 to the counter affidavit, which clearly show that the applicant's intention was to defraud the Railways for obtaining compassionate appointment to her devar deliberately showing him as her elder son. It was further submitted by the respondents' counsel that the applicant no.1 applied for compassionate appointment showing her brother-in-law (devar) to be her elder son, which was subsequently admitted by her in application dated 02.04.1986, which has been filed as annexure CA-4 along with counter affidavit. Therefore, in view of the pleadings made in the counter affidavit, counsel for the respondents submitted that the claim for compassionate appointment was rightly rejected by the respondents vide Order dated 16.0.1986, filed as annexure CR-5 to the counter affidavit.

5. I have heard the counsel for the parties and perused the records available before me.

6. It is an admitted fact that husband of the applicant died on 06.09.1981 while working on the post of Parcel Porter in the respondents' department. In the application dated 25.02.1983 (annexure CR-1), it is admitted by the applicant no.1 that Shri Ram Akhtiyar Singh was in reality his son and not devar for obtaining compassionate appointment, ~~fraudulently~~. In annexure CR-3 i.e. report of Sarpanch of the Village, Ram Akhtiyar Singh has been shown as son of applicant no.1. Thereafter, she again claimed Ram Akhtiyar Singh as her son, not as devar. She has also thereafter by letter dated 22.11.1986 (annexure CR-4) clearly admitted that she has wrongly mentioned him as her son, who is actually her devar

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(brother-in-law). Thus, the claim of the applicant was rightly rejected by letter dated 16.07.1986(CR-5), clearly stating therein that as she has applied for compassionate appointment on a wrong information with fraudulent intention, therefore, her case for compassionate appointment is rejected.

7. It is also admitted by the applicant in paragraph no.4.15 of the O.A. that she has been continuously making representations from 1992 to 2003 and when no action was taken by the department, she filed final representation on 10.05.2004, and thereafter filed this O.A. in July 2004. The law is very clear that repeated representations do not extend the period of limitation. Moreover, no delay condonation application has been filed by the applicants. It is also evident that the applicants have not approached the department with clean hands for consideration of compassionate appointment to applicant no.2. The claim of applicant no.1 is totally based on the wrong facts, which does not entitle her for any concession on any ground as she has shown Shri Ram Akhtiyar Singh-brother in law as her son in various applications.

8. Under the facts and circumstances mentioned above, I find no good ground to accede to the prayer of applicants. Therefore, O.A. is dismissed on the ground of limitation as well as on merits. There will be no order as to cost.


Member (J)

/M.M./