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OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ORIGINAL APPLICATION NO. 728 OF 2005.

ALLAHABAD THIS THE 13TH DAY OF DECEMBER 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

1. Ganga Devi w/o late Ram Surat Ram, Ex-Senior Cashier in the office of Divisional Cashier and pay Master Northern Railway, Allahabad now changed as North Central Railway, Allahabad R/o House NO. 19 Chak Niratul, Chauphataka, G.R. Road, Allahabad.
2. Km. Neelam daughter of Ram Surat Ram, Ex-Senior Cashier in the office of Divisional Cashier and pay Master Northern Railway, Allahabad now changed as North Central Railway, Allahabad

.....Applicants.

By Advocate: Shri Sajnu Ram

Versus.

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Financial Advisor and Chief Accounts Officer now designated as Financial Manager and Chief Accounts Officer, North Central Railway, Allahabad.
3. Senior Divisional Accounts Officer, now designated as Senior Divisional Financial Manager, North Central Railway, Allahabad.
4. Divisional Cashier and Pay Master, North Central Railway, Allahabad.

.....Respondents

By Advocate: Shri A.K. Pandey

O R D E R

Applicants have filed this O.A. with a prayer that respondents be directed to give appointment to the applicant NO.2 on compassionate grounds from the back date in terms of Railway Board letter dated 30.4.1979.

2. There is no much dispute about the factual position. The applicant NO. 1 is widow and applicant NO. 2 is daughter of late Shri Ram Surat Ram, who died on 20.5.1989 while still in service of the respondents. Applicant NO.1 gave application on 25.1.1990 to respondent NO. 3 requesting him to give appointment to

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her daughter (respondent NO.2) on attaining the age of majority. It is said that she again gave application on 10.11.1998 for giving appointment to her daughter as she had reached 18 years of age. It appears, the matter remained pending with the respondents inspite of representations/applications given in this regard and so this O.A. was filed. It has been said that applicant No.2 being daughter of late Ram Surat Ram is entitled to compassionate appointment in accordance with the relevant Rules/instructions regulating such appointment, as the family is in financial distress and without help in the shape of compassionate appointment, it may not be able to ~~pull on~~ ~~prolong~~. It has also been said that respondents have violated their own instructions by not considering the matter, within the period prescribed in Board's letter of 1979.

3. The respondents have filed reply. In para 14, they ~~have~~ tried to say that matter is under consideration and sometime is needed for passing suitable orders. They have attempted to say that applicants were asked to furnish certain information/papers and the same were not supplied in time, ~~delay is being caused.~~

4. This much is clear from the averments made by the applicant and material placed on record that applicant NO. 2 attained the age of 18 years on 9.1.1998. The question for considering her candidature for such appointment should have arisen only when she attained the age of majority and not before that. It is not the contention of Shri Sajnu Ram that applicant NO. 2 could have been appointed on compassionate ground even before she attained the age of 18 years, ~~so~~ it was a case where the request of applicant NO.1 made in 1990 for appointment of her daughter (applicant NO.2) was rightly kept pending till the applicant NO.2 attained the age of

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18 years. Now when the respondents themselves say that claim of the applicant NO.2 for appointment on compassionate ground under Dying in Harness Rules is in their active consideration and they are processing the matter, so there is nothing more to be decided by the Tribunal. Shri Sajnu Ram, learned counsel for the applicant was not able to satisfy me on the point that such appointment can be given from back date. What he argues is that when the Rule or instruction says that such claim should be considered within a particular period and the authorities ~~fail~~ ^{fail} to consider within that period, then applicant should not suffer for their inaction. I think this Tribunal will not be legally justified in directing the respondents to give appointment from back date.

5. So the O.A. is finally disposed of with a direction to the respondents No. 2 and 3 to consider and dispose of the request of the applicant NO.2 for appointment on compassionate ground under relevant Rules, within a period of 3 months from the date, a certified copy of this order is produced before them.

NO costs.

13.12.07

Vice-Chairman

Manish/-