

(open court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 24th day of August, 2005.

Original Application No. 975 of 2005.

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

Ishwari Prasad, S/o Late Balbeer,
R/o Vill. Bughia Janbi, Post- Bhojipura,
Distt. Bareilly.

.....Applicant

Counsel for the applicant :- SriV.K. Srivastava

V E R S U S

1. Union of India through its General
Manager, North Eastern Railway,
Gorakhpur.
2. Divisional Railway Manager, North Eastern
Railway, Izzatnagar, Bareilly.
3. Divisional Personnel Officer, North
Eastern Railway, Izzatnagar, Bareilly.

..... Respondents

Counsel for the Respondents :-

O R D E R

By this OA the applicant has prayed for quashing of the impugned order dated 8/9.05.2001 passed by respondent No. 2 with a further direction to the respondents to make the appointment of the applicant under the provisions of dying in

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harness rules and to make payment of salary month to month as and when it falls due.

2. Brief facts, as per the applicant, are that his father died on 04.08.2000 while working as Trackman in the respondents' establishment leaving behind two daughters and one son. He informed the department regarding his death of his father by letter dated 08.08.2000 (Annexure A- 2). He also requested the department for considering his case for appointment under the provisions of dying in harness rules which had been rejected by order dated 08.05.2001, Annexure A- 5 of the O.A. Thereafter he had preferred a representation on 30.07.2002 followed by another representation on 20.09.2003. When no action was taken by the respondents, he filed the present O.A claiming the above mentioned relief(s).

3. On the specific ^{query} ~~query~~ by the Court on the question of limitation as the order dt. 08.05.2001 has been challenged by filing this O.A in the year 2005, counsel for the applicant submitted that he has filed Misc. Delay Condonation Application along with this O.A explaining the delay in filing the O.A in para 3 and 4 of the said application. The applicant filed representations against the impugned order dated 08.05.2001 on 30.07.2002 followed by another representation dated 03.09.2003, but no order has been passed till date except the verbal assurances by the department. The applicant thereafter contacted the counsel in the month of May 2005 who advised him to file the O.A as early as possible.

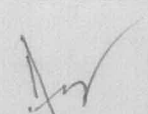
4. I have heard learned counsel for the applicant and I am not satisfied with the arguments advanced by the counsel for the applicant in explaining the delay based on the grounds taken in the delay Condonation application. As per counsel, the applicant moved only 2 representations 30.07.2002

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followed by 03.09.2003 and was waiting for the outcome of the representation till 2005 when the applicant was advised by the counsel to file the present O.A. I have gone through the impugned order 08.05.2001 filed as Annexure A- 5 wherein it is stated in para 1 that the deceased had left 2 married daughters and the applicant, who is also married and an amount of Rs. 60860/- has also been paid to the family of the deceased as settlement dues. Admittedly the order was passed on 08.05.2001 which has been challenged in this O.A, filed on 08.08.2005. According to the applicant he filed first representation on 30.07.2002. If it was so, then the O.A should have been filed in February, 2003 after waiting for 6 months from the date of sending the application. The law is well settled that repeated representations do not extend the period of limitation as held in the case of S.S Rathore Vs. State of M.P. 1990 SCC (L&S) 50. It has also been held in the case of R.C. Sharma Vs. Udham Singh kamal AISLJ 2000(2) 29 that time barred application cannot be entertained.

5. In view of the aforesaid discussion and in the light of case law cited above I find that this O.A is highly barred by period of limitation which deserves to be dismissed on ^{in limine} this ground alone. Accordingly the same is dismissed as grossly time barred. No Costs.


MEMBER- J.

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