

**Open Court**

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD**

**M.A. No. 330/1402/2020 in Dy. No. 330/2046/2020**

This the 6th Day of August, 2021

**Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)**

Amit Kumar Bharti son of Ram Harakh, resident of 256, Bargo Gorakhpur, Bargo Distt. Gorakhpur, Uttar Pradesh.

Applicant

By Advocate: Sri A.S.Gautam

Versus

1. Union of India, through its General Manager, North East Railway, Gorakhpur.
2. The Divisional Railway Manager, North East Railway, Lucknow.
3. Senior Divisional Railway Officer (Personal), Lucknow.
4. Regional Manager, Gorakhpur Region, Gorakhpur.

Respondents

By Advocate: Sri Amit Kumar Rai

**O R D E R**

**By Hon'ble Mrs. Justice Vijay Lakshmi, Member (Judicial)**

M.A. No. 1402/2020 is a delay condonation application filed in Dy. No. 2046/2020, with prayer to condone the delay occurred in filing the instant O.A.

2. Heard Sri A.S. Gautam, learned counsel for applicant and Sri Amit Kumar Rai, learned counsel for respondents on delay condonation application. Perused the record.

3. An affidavit has been filed along with the delay condonation application, in which it has been stated that the applicant is the son of deceased Ram Harakh, who was a casual labour in North Eastern Railway and has worked in the Railway Department from 2.1.1979 to 7.8.1980.

4. The applicant's father Ram Harakh died on 8.6.2006. The applicant was 16 years of age at that time. Thus he was a minor

and his mother being an illiterate lady was unable to understand anything. When the applicant became major, he came to know that his father had filed an O.A. No. 733/2005 Ram Harakh Vs. Union of India and others, which was dismissed for want of prosecution and as the applicant could not trace out the file, he could not file the recall application in time.

5. It is contended by the learned counsel for applicant that claim of father of the applicant stood survived because civil right of an employee are protected under Constitution of India. It is next submitted by the learned counsel for applicant that the applicant Amit Kumar Bharti sent a representation dated 3<sup>rd</sup> October, 2019 before the respondents, but it was not replied. Therefore, by means of the instant O.A., he has prayed for a direction to the respondents to decide his representation, seeking compassionate appointment in place of his father.

6. Learned counsel for the respondents has vehemently opposed the delay condonation application on the ground that there is an inordinate delay in filing the O.A. Admittedly, the applicant was 16 years of age at the time when his father died on 8.6.2006. Meaning thereby, that the applicant would have attained majority after 2 years i.e. in the year 2008, but he has filed this O.A. in the year 2020 after a gap of about 15 years without giving any proper explanation about such a long delay in filing the O.A. It is further submitted that as per well settled legal position, series of representations filed by the applicant cannot be considered as a ground for condoning the delay.

7. Learned counsel for respondents has drawn my attention to Section 21 of the Administrative Tribunals Act, 1985, to contend that Section 21 of the Administrative Tribunals Act, 1985 starts with sentence “ A Tribunal shall not admit an application,--. “The use of word “shall” in Section 21 of the AT Act, indicates

that it is a mandatory provision and it should be strictly applied while considering the delay condonation application.

8. Per contra, learned counsel for the applicant has submitted that a liberal view may be taken in this matter because the applicant is the Scheduled Caste Candidate and he has no source of income.

9. Having considered the rival contentions advanced by the learned counsel for parties and on perusing the record, it appears that the father of the applicant had earlier filed an O.A. No. 481/2004 before the Allahabad Bench of CAT, which was decided vide order dated 7.10.2004, with a direction to the competent authority, amongst the respondents to decide the representation/claim for his regularization, by a speaking order in accordance with law within a time of 3 months from the date of receipt of copy of the order.

10. The order so passed on the representation has been annexed as Annexure No. A-7 to the instant O.A., which shows that due to the reason that father of the applicant Ram Harak was out of Railway service for a long period of 12 years and before that he had worked only as a casual labour for a total period of 479 days with small breaks and in the seniority list, his position being very low, his services could not be regularized, whereas, the Compassionate appointment is given to the dependent of a government servant dying in harness (on duty).

11. From the above discussion, it is clear that even on merits, the applicant has no case

12. The applicant is seeking a direction to the respondents to decide his representation dated 8.9.2009 after such a long gap. In the affidavit filed in support of the delay condonation application, the reason for such a long delay has not been properly explained.

13. In view of the above, the delay condonation application is liable to be rejected and is rejected and Dy. No. 2046/2020 is also dismissed accordingly.

14. No order as to costs.

**(Justice Vijay Lakshmi)**  
**Member (J)**

*HLS/-*