

Reserved

Central Administrative Tribunal, Allahabad.

Registration O.A.No. 1181 of 1987

Banshi Dhar Jatav Applicant

Vs.

Union of India and 3 others Respondents.

Hon. Ajay Johri, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

In this petition under Section 19 of the Administrative Tribunals Act XIII of 1985 filed on 9.12.87 the applicant seeks a direction to the respondents to provide a suitable job to him on compassionate ground and to set aside the order dated 11.6.1987 indirectly refusing to give such appointment to the applicant.

2. It is alleged that the father of the applicant was employed as a class IV employee in the Northern Railway under the Inspector of Works (for short IOW) at Etawah and he died in harness on 5.11.1971. The mother of the applicant was then alive and she too died in March 1977. The applicant sent his earliest application on 3.7.1978 (copy not filed) to the D.P.O Allahabad for his appointment on compassionate ground and thereafter he sent 3 more applications on 21.8.1978, 16.11.1978 and 23.7.1979 but received no reply. The applicant thereafter issued legal notice under Section 80 CPC to the respondents whereupon by his letter dated 27.12.1986, the IOW Etawah- respondent no.3 ^{asked} the applicant to appear in his office to submit the applicant in the prescribed ^{proforma} proforma. The applicant thereafter seems to have submitted the required information and the application in the prescribed proforma for his appointment whereupon he was informed by the D.R.M Allaha-

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bad vide his letter dated 16.6.1987 that at the time his father had died, there was a provision to appoint even the illiterate ladies on compassionate grounds but his mother did not apply for her appointment and it appeared from the record available in the office that the applicant had attained majority in 1972. There is no mention in this letter that the applicant is not entitled to any appointment or his application has been rejected but it should be ^{implied} from this reply that on the basis of delay, the DRM was not prepared to consider the case of the applicant for his appointment on compassionate grounds specially in view of the fact that he was major and eligible for appointment in 1972 itself i.e. only a year after the death of his father and this matter being of 15 years, nothing could be done for the applicant.

3. It was contended on behalf of the applicant that the respondent no.3 only on 27.12.1986 asked the applicant to submit his application in prescribed proforma and that having been done the claim of the applicant is well within time from the date of implied refusal made by the DRM Allahabad. We have carefully considered the contentions raised on behalf of the applicant and are of the view that under the relevant rules, the appointments on compassionate grounds are normally made within a period of 5 years from the date of the death of the railway employee. This period of 5 years can be relaxed with the approval of the General Manager in deserving cases, for example, a widow cannot take up employment and the sons/daughters are minors. In the case of the applicant, his mother could seek an appointment and as she did not seek any appointment, the applicant himself could apply for such appointment in 1972 on his attaining the majority. We see no reason for his not taking any action upto 3.7.1978 for such appointment. The applicant, though, has ^{incidentally} mentioned in para 6(i) of the petition that he is of about 32 years, has not

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challenged the correctness of the facts stated in the impugned order dated 16.6.1987, annexure 6 that he became major in 1972. The copies of earlier petitions ^{have} ~~are~~ also not been filed to give a clear picture of his case. The mere fact that on receiving a legal notice from the applicant, the authorities asked him to send an application in prescribed proforma with necessary certificates did not confer any right on the applicant for such appointment. On considering the application when they found that the matter was too old they did not like to oblige the applicant. The applicant has tried to explain his conduct for delay by asserting that his mother was seriously ill and ultimately died in 1977. We are, however, of the view that this cannot be a satisfactory explanation as even despite the illness of the mother, the applicant could move an application for his appointment on compassionate ground and we, therefore, irrespective of the delay in presenting the instant petition by the applicant, do not find it to be a fit case for adjudication ^{so} ~~as~~ to interfere with the discretion of the respondents in the matter.

4. The petition is accordingly dismissed at admission stage.

Sd/MEMBER (A)

Sd/MEMBER (J)

Dated: March 23—1988
kkb.

Compared by.

Adhikary
24.3.88