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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD

Dated the 3rd day of October, 1988.

Present

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY .. VICE CHAIRMAN
THE HON'BLE SHRI AJAY JOHRI .. MEMBER (A)

APPLICATION NO. 1049 OF 1987

Kashi Nath Maurya
S/o Late Biharilal Maurya,
Hardua, P.O.
Sarai Kansrai,
Dist. Varnasi (UP)

.. Applicant

(By Shri R.S. Ojha, Adv. for the applicant)

-vs.-

1. The General Manager,
Northern Railway,
H.Q. Office, Baroda House,
New Delhi.
2. The Divisional Rly. Manager,
The Divisional Office,
Hazratganj, LUCKNOW, N.R.
3. The Senior Divisional Personnel
Officer, The Divisional Office,
N.Rly, Hazratganj, Lucknow.
4. The Assistant Engineer,
Northern Railway,
Pratapgarh.

.. Respondents.

(By Shri Prashanth Mathur, Adv. for the respondents)

This application coming on for hearing to-day,
Hon'ble Vice Chairman made the following:

Order

ORDER

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985(Act).

2. One Shri Biharilal Maurya, the father of the applicant working as a Gangman in the Northern Railway(NR), died on 8-12-1970 in harness. On that day, the applicant was a minor.

3. On attaining majority on 25th November, 1983 the applicant approached the General Manager, N.R., New Delhi (GM) for appointing him to any suitable post in the N.R. on compassionate grounds in conformity with the orders made from time to time. On 5-10-1986, the Divisional Railway Manager (DRM) called upon the applicant to explain delay in making his application. On receipt of the same, the applicant claims that he made necessary representations to the authorities on which there was no positive response till 3.11.1987. On 3.11.1987, the applicant has approached this Tribunal for appropriate reliefs.

4. In resisting this application, the respondents have filed their reply.

5. Shri R.S.Ojha, learned Counsel for the applicant, contends that on the facts and circumstances, there was really no delay in making the application by his client and that even if there was some delay, that delay was not of that character to deny him an appointment on compassionate grounds.

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6. Shri Prashanth Mathur, learned Counsel for the respondents, refuting the contention of Sri Ojah, contends that the application made by the applicant was beyond the period stipulated in the orders made by the Railway Board from time to time and was therefore barred by time on which ground, as also on the ground that the wife of Sri Biharilal had not made an application for appointment within time permitted by the orders the Railway Administration was justified in not granting the request of the applicant.

7. On the pleadings and the records placed before us, we are unable to say whether the wife of Sri Biharilal had or had not made for appointment an application, we are however inclined to hold that the wife of Biharilal had not made an application for appointment.

8. The fact that the wife of Biharilal had not made an application does not by itself disentitle the applicant, who happens to be his son to make an independent application on compassionate grounds. On this view, we see no merit in the objections raised by the respondents to the effect that the claim of the applicant cannot be considered.

9. We have earlier noticed that the applicant attained majority on 25-11-1983. We will also assume that the applicant had not made an application within six months from the date he attained such majority, as stipulated in one of the orders of the Railway Board or the General Manager and examine the position on that basis.

- 4 -

10. We are of the view that the periods stipulated in the Circulars are not absolute periods of limitation as in the case of original suits, which cannot be condoned or waived on any ground. The period prescribed are all meant for accelerating the disposal of matters with expedition and cannot be read as prescribing absolute periods of limitation which cannot be ignored on any ground. From this, it follows that the application made by the applicant should have been considered on merits.

11. We should not also ignore the fact that the applicant on attaining majority had become a worldly-wise to conduct his affairs before all the authorities. On this view also, the authorities should have taken a sympathetic view and considered the case of the applicant on merits. On this view also, we consider it proper to direct the General - Manager to re-examine the case of the applicant on merits.

12. In the light of our above discussion, we allow this application in part and direct the General Manager, N.R., New Delhi, to consider and dispose of the application of the applicant for appointment on compassionate grounds, on merits with all such expedition as is possible in the circumstances of the case, and in any event, on or before 31-12-1988.

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- 5 -

13. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

Ms. J. Marasamy
(K.S. PUTTASWAMY)
VICE CHAIRMAN. 3/10/1988.

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(AJAY JCHRI)
MEMBER (A).

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