

Central Administrative Tribunal, Allahabad.

Registration O.A.No.1046 of 1988

Zamil Ahmad ... Petitioner

Vs.

Chairman Railway Board
and another ... Respondents

Hon.D.S.Misra, AM
Hon.G.S.Sharma, JM

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

The applicant in this application u/s.19 of the Administrative Tribunal Act XIII of 1985 had sought his appointment on compassionate ground by filing O.A.No. 73 of 1987 before the Allahabad Bench of the Tribunal. His father is stated to have died in harness in 1970. The petition was contested on behalf of the respondents mainly on the ground that the compassionate appointments could be claimed within a period of 5 years. After full hearing, the said petition was dismissed by the Allahabad Bench of the Tribunal on 17.2.1987 but it was observed that the said dismissal will not prevent the applicant from approaching the Railway Board for any relief and the Railway Board will also not be barred from considering the said application on merit without any reference to the observations made in the judgment. The mother of the applicant thereafter seems to have made a mercy appeal to the Chairman of the Railway Board on 25.2.87 and thereafter sent a reminder on 11.3.87 for the appointment of the applicant on compassionate grounds. When nothing was done, he filed this fresh petition u/s.19 of the

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Administrative Tribunals Act for the same relief that he should be given appointment on any class III post with retrospective effect and other benefits.

2. The learned counsel for the applicant has been heard and in our opinion, this petition is barred by the principle of res-judicata. There is nothing new before us to give the applicant a fresh cause of action and the observations contained in the final order passed in O.A.No.73 of 1987 never meant that the respondents had to review the case of the applicant. In our opinion, only an opportunity was given to the applicant to approach the respondents again by way of mercy appeal and if the respondents so desire, they could accede to his request despite the dismissal of his earlier petition. It was never meant that in case the mercy appeal was not considered, the applicant will have a fresh cause of action to approach this Tribunal for the same relief. We, therefore, do not find it to be a fit case for adjudication.

3. The petition is dismissed at the admission stage.

Sharma
14/9/88
MEMBER(J)

Sharma
14.9.88
MEMBER(A)

Dated: 14.9.1988

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