

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH ALLAHABAD)

Page No. 314 of 1992.

OF 1992.

Page No.

Date of decision, 10-11-1993

...Smt. Suneeta Verma.....Petitioner

...Shri. R. G. Pach's.....Advocate for the petitioner.

Vs

...Union of Inche Aor's.....Respondents.

...Shri. Prashant Mathur.....Advocate for the Respondent(s)

CORAM:-

The Hon'ble Mr. Justice R. K. Varma, V. C.

The Hon'ble Mr.

1. whether reporters of local papers may be allowed to see the judgment?
- ✓ 2. To be referred to the Reporter or not?
- ✓ 3. whether their Lordships wish to see the fair copy of the judgment?
4. whether to be circulated to all other Benches?

R.K.V.
Signature

Ramesh

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 314 of 1992

Suneeta Varma

.... Petitioner

Versus

Union of India and Ors

.... Respondents

CORAM:

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

(By Hon. Mr. Justice R.K. Varma, V.C.)

By this petition filed Under Section 19 of the Administrative Tribunals Act 1985, the petitioner has sought quashing of the order dated 21.3.88 (Annexure A-7 to the petition) and a direction to the respondents to give an appointment to the petitioner in class III post on compassionate ground.

2. The facts giving rise to this petition briefly stated are as follows:

The father of the petitioner was working as Asstt. Station Master at Railway station Pooranpur, district Pilibhit and he died during the course of employment on 14.10.82 leaving behind his widow, and three minor children namely the petitioner and two others. The petitioner made a representation on 11.11.83 (Annexure A-2 to the petition) to the Regional Railway Manager, Northern Railway, Izat Nagar, Bareilly, respondent no.3 for giving her an employment on compassionate ground. Not getting any response, the petitioner made a representation dated

17.11.87(Annexure A-3 to the petition). The petitioner had passed the Intermediate examination in 1985 and has earlier passed the examination of Visharad also and she prayed for a suitable appointment having regard to her qualification. The petitioner made representations(Annexure A-5) dated 30.12.87, (Annexure A-6) dated 29.3.88 and (Annexure A-8) dated 15.4.88. The respondent no.3 rejected the application of the petitioner dated ^{Kin}16.11.87 stating that it was not possible to give appointment to the petitioner/son/daughter under existing rules. In her representation (Annexure A-3) dated 17.11.87 the petitioner had mentioned that her mother, the widow of the deceased had ^{Kin}no objection to the petitioner being appointed and has submitted an affidavit in that behalf in the office of the respondents.

Kin
3. It is not disputed that the petitioner is the daughter of the deceased employee late Sri Chandra Prakash Varma, Asstt. Station Master, Railway station Pooranpur who died in harness on 14.10.82. It is also not the case of the respondents that any other heir of the deceased employee had made any application for appointment on compassionate ground.

4. The respondents in their counter have not shown any existing rule which prohibits appointment of the daughter of the deceased on compassionate ground. The impugned order (Annexure A-7 to the petition) is apparent passed without application of mind. The refusal of appointment to the petitioner in the circumstances by the order impugned (Annexure A-7 to the petition) dated 21.3.88 is not supported by any existing rule and as such is not sustainable.

5. The learned counsel for the petitioner has cited 2 Supreme Court decisions namely 'Smt. Sushma Gosain and Ors Vs. Union of India and Ors (A.I.R 1989 Supreme Court 1976) and 'Smt. Phoolwati Vs. Union of India and Ors (A.I.R 1991 SC 469) to rely on the following observations.

"It can be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."

RKV

6. The learned counsel for the respondent has however, contended that the petition is liable to be dismissed on the ground of delay in filing the petition before the Tribunal. The learned counsel for the petitioner has submitted that the order impugned (Annexure A-7) dated 21.3.88 suffers from non application of mind and other representations (Annexure A-6) dated 29.3.88, (Annexure A-8) dated 15.4.88, and (Annexure A-9) dated 10.5.90 were pending before the authority. The application by the petitioner's mother (Annexure A-10) for the appointment of the petitioner to a class III post on compassionate grounds had also been submitted before the respondent no.3. Learned counsel has submitted that the

delay in filing the application before the Tribunal due to pendency of undecided representations, cannot be a ground for dismissal of application. Reliance has been placed in this connection on a decision of Supreme Court in 'State of Madhya Pradesh Vs. Bani Singh and another' (1990) L A B. I.C 1488).

7. In the facts and circumstances stated as above, I do not feel inclined to accept the contention of the learned counsel for the respondents that the petition should be dismissed on the ground of delay and laches. The order impugned has been passed without application of mind. The petitioner was entitled to pursue the matter with further representation to get a decision with due application of mind and the question of delay in such circumstances cannot be a bar to the petitioner for coming to this Tribunal for redress.

8. In view of the discussion aforesaid, this petition is allowed. The order impugned (Annexure A-7) dated 21.3.88 is hereby quashed and the respondents are directed to appoint the petitioner in a suitable post in class III category having regard to her qualifications within a period of 3 months from the date of communication of this order.

9. There shall, however, be no order as to costs.

R.K. Verma
Vice Chairman

Dated: November 10th, 1993:

(Uv)