

Open Court

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 14th day of December, 1995

Original Application No.1473 of 1993

District : Jhansi

QUORUM:-

Hon'ble Mr. S. Das Gupta, A.M.

1. Smt. Nafeesa Begum
Widow of Late Mohd. Siddiq
Resident of 21, Mohalla Aligol
Distt-Jhansi (U.P.)

2. Mohd. Idris son of
Late Mohd. Siddiq,
Resident of 21, Mohalla Aligol
District-Jhansi (U.P.)

(By Sri M.P. Gupta, Advocate)

..... Applicants

Versus

1. The Union of India through the General Manager,
Central Railway, Bombay VT.
2. The Divisional Railway Manager, Central Railway,
Jhansi.

(By Sri Prashant Mathur, Advocate)

..... Respondents

SL

ORDER (oral)

By Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed under Section 19 of the Administrative Tribunals Act seeking relief of compassionate appointment of Applicant No.2 on Class III post.

2. The brief facts of the case giving rise to this application are that the father of the Applicant No.2, who was working as Goods Porter in the Central Railway at Jhansi, died in harness on 3-4-1984. It is stated that the deceased left behind five minor children including Applicant No.2, besides his widow. It is further stated ~~herein~~ that shortly before attaining the age of 18 years, the Applicant No.2, who is the eldest of the children of the deceased, submitted an application dated 30-6-1988 representing for appointment on a Class III post on compassionate grounds. This representation is stated to have been followed up by several reminders. However, by the impugned letter dated 27-2-1991 (Annexure-A-2), the Applicant No.1, who is the mother of Applicant No.2, was informed that since the request for compassionate employment was made two years after the Applicant No.2 had attained the age of majority, this application cannot be considered. Hence, this application for the relief ^{u. a. f. e.} mentioned.

3. The respondents have filed a counter affidavit in which it has been stated that they did not receive

- 3 -

any representation dated 30-6-1988 which the applicant claims to have made shortly before attaining the age of 18 years. The first application which was received by them was dated 29-5-1991 and at that time more than two years have lapsed since Applicant No.2 had attained the age of majority and, therefore, in view of the specific provisions and the rules laid down by the Railway Board, the request for compassionate appointment could not be considered and, therefore, it was turned down.

4. Heard learned counsels for both the parties and carefully perused the records. The learned counsel for the respondents made available copy of the relevant rules contained in Railway Board Circular dated 18-4-1985 and 18-4-1990 regarding appointment on compassionate grounds. I have seen therefrom that a request for compassionate appointment can be made within five years from the date of the death of the railway servant in the normal circumstances. The period of five years can be relaxed by the competent authority in certain cases, one of which is that the son/daughter is minor at the time of the death. In such a situation the request by such son/daughter has to be made within a period of one year from the date of attaining the age of majority.

5. In this case, there is no dispute that the date of birth of the Applicant No.2 being 2-7-1970, he attained the age of 18 years on 2-7-1988. It is, therefore, seen that ^{if} _{if} the application was ^{actually} made on 30-6-1988, which ^{if we} is not only before attaining the age of majority but also within the period of five years from the date of death of the

- 4 -

railway servant. In such a situation the application could not have been rejected by the respondents except on merit. There is, however, a dispute as to whether the applicant really made representation on 30-6-1988. The respondents have denied receipt such representation. The applicant has filed a rejoinder reply, ^{/ annexing} a photocopy of the postal receipt of registered letter stated to have been addressed to the DRM(personnel) Jhansi. The learned counsel for the respondents pointed out that while the postal receipt annexed with the counter reply is addressed to the DRM(Personnel), Jhansi, the alleged representation dated 30-6-1988 is addressed to DRM(Welfare), Jhansi. I, have, however, seen, that in a subsequent representation dated 29.5.1991 (Annexure-A-3), the Applicant No.3 had referred to her earlier representation dated 30-6-1988. I have also noticed that Applicant No.1 had submitted a request for compassionate employment for her son immediately after the death of her husband and in response the memo dated 29-8-1984/ 10-9-1984 (Annexure-1 to the CA) was sent to the Applicant No.1 stating therein that she should submit an application only when Applicant No.2 attains the age of 18 years. In view of ^{the facts} ~~these~~ it is does not stand to reason that the Applicant No.1 should submit her application ~~again~~ two years after the Applicant No.2 had attained the age of 18 years. In this context the applicant's contention that the representation dated 30-6-1988 was made shortly before the Applicant No.2 had attained the age of 18 years appears to be convincing. I am, therefore, unable to disbelieve the applicant's

contention that such representation was made, although possibly due to incorrect addressing of the application the same was not received by the concerned authority. The averment of the applicant shows that the deceased railway servant ~~who~~ had left behind five minor children apart from the widow. The essence of the rules relating to compassionate appointment is to give immediate assistance to the bereaved family which is left in penurious condition by the death of the sole bread winner. That being the position, I am of the view that the respondents should have considered the application for compassionate employment of her son on merit keeping in view the financial condition of the family instead of ~~solely~~ rejecting it on the ground of delay.

6. In view of the foregoing, I direct ~~that~~ the respondents to consider the request of Applicant No.1 for compassionate employment of Applicant No.2 on merit. In case, on enquiry into the financial condition of the family, the respondents are convinced that the case deserves sympathetic consideration, they should consider appointment of Applicant No.2 on a suitable post for which he is fit on the basis of his qualification. A decision in this regard shall be taken within a period of four months from the date of issue of this order. In case it is finally decided on merit by the respondents that the applicant ~~was~~ not to be appointed on compassionate grounds, this should be communicated to the applicant by a reasoned and speaking order.

7. The application is disposed of with the above directions. There shall, however, be no order as to costs.

Dube/

W.C.
Member (A)