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## CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 269 of 1993

Firoz Khan ... .. Applicant.

Versus

Union of India  
and others ... .. Respondents.

...

( By Hon. Mr. S. Das Gupta, Member(A) )

The brief facts of the case, as set up by the applicant in this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 are that his father who was a Group-D <sup>employee</sup> ~~joined~~ in the Railways died in harness on 18.8.1981 at the Railway Hospital at Gorakhpur. The applicant submitted a representation for appointment on compassionate ground vide his application dated 5.9.1981 followed by reminders dated 16.7.1982 and 1.1.1983. It is stated that due to typographical error, the name of the applicant was typed as 'Firoz Ahmad Khan' instead of Firoz Khan; A copy of the application dated 5.9.1981 is at Annexure- A 2. The applicant, however, received all settlement dues in the name of Firoz Khan by the letter dated 4.3.1982 issued by the respondent no. 3. Thereafter, the applicant gave further representations on 24.12.1986 and 19.10.1990 and the same mistake in the name occurred therein also, though the applicant claims that he signed as Firoz Khan. A copy of the relevant representations are at Annexure- A 4 and A 5 respectively. The Social Welfare Inspector held an enquiry and

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recommended the case of the applicant for compassionate appointment vide his report dated 23.10.1991, a copy of which is at Annexure- A 6. The applicant submitted an affidavit sworn before a Notary affirming that due to typographical mistake the word 'Ahmad' was typed and the actual name of the applicant is Firoz Khan. However, nothing has so far been done on his request for compassionate appointment and this has led the applicant to approach this Tribunal praying for the relief that the respondents be directed to appoint the applicant on compassionate ground.

2. In the written statement filed on behalf of the respondents, it has been stated that while submitting a declaration on 14.4.1977 for taking privilege, <sup>Pass</sup> Thus, the father of the applicant gave a declaration as regards his dependents in which the name of the eldest son was shown as Firoz Ahmad and that he was 19 years old on that date. The respondents contend that that ~~on~~ <sup>at</sup> the date of the death of his father, the applicant was major and <sup>have</sup> could applied for compassionate appointment immediately after the death. The applicant having not made an application at that time, the same is now exclusively time barred. They claimed that the first application was dated 24.10.1986.

3. We have heard the learned counsel for both the parties and have gone through the records of the

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case.

4. It is clear from the written statement of the respondents that the request of the applicant for compassionate appointment is being resisted mainly on two grounds. These are;

- (i) there is confusion between the name of the Firoz Ahmad and Firoz Khan and the respondents have had doubt as regards who really the applicant is?
- (ii) The first application has been received only on 29.10.1986, whereas, the death of the father of the applicant took place on 19.8.1981.

5. So far as the question of the confusion in his name is concerned, I do not consider it as a matter which would act as a stumbling block for the respondents to consider the case of the applicant. After all, the settlement dues have actually been received by the applicant and this has not been denied. The applicant has stated on oath that his name is Firoz Khan and the word Ahmad was typed by mistake. In any case, the identity of the applicant ~~would~~ easily be ~~verified~~ in order to guard against any spurious claim of compassionate appointment. Even this ~~is~~ not necessary at this stage since there is no dispute that the applicant, as son of the deceased Government Servant received the settlement dues after the death of his father.

6. Coming to the remaining point relating to late submission of the applicant, the facts are in

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dispute. The applicant states that his first application was dated 5.9.1981, whereas, according to the respondents, the first application was on 24.10.1986. The applicant has no proof of having made the first application on 5.9.1981. Even if it is assumed that the first application is only of 24.10.1986, the same has been submitted only about a month after the period of 5 years elapsed since the death of his father. Normally the question of time barred with regard to the consideration of applications for compassionate appointment arises only if 5 years have elapsed since the death of the Government Servant. In this case, time over-run is only<sup>f</sup> about a month. This should not prevent the respondents from considering the case of the applicant on merit.

6. In view of the forgoing, I think it is just and fair to direct and I do direct the respondents to consider the request of the applicant for compassionate appointment keeping in view all the relevant factors, like pecuniary condition of the family, the number of dependents of the deceased Government Servant, the quantum of terminal benefits received and similar other factors. If the request of the applicant otherwise merits consideration on the basis of these factors, he be appointed to a suitable post appropriate to his educational qualification

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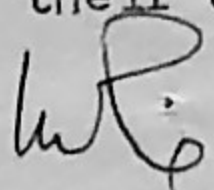
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subject to his otherwise being found fit. This exercise be completed within a period of six months from the date of this order.

7. The application is disposed of with the above directions. Parties to bear their own costs.

  
Member (A)

Dated: 29 August, 1994.

(n.u.)