

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Dated : This 21st day of December 1995

Original Application No.293 of 1993

QUORUM:-

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

1. Smt. Anguri Devi widow of Late Sri Shyam Lal
Resident of Village-Nagla Dudha Ram,
P.O. Musahatpur, District-Firozabad.

2. Sri Ram Bresh son of Late Sri Shyam Lal
R/o Village Nagla Dudha Ram, Post-Musahatpur,
District-Firozabad.
(By Sri Anand Kumar, Advocate)

..... Applicants

Versus

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.

2. Divisional Railway Manager,
Northern Railway,
Allahabad.

(By Sri S.N. Gaur, Advocate)

..... Respondents

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O R D E R

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

The husband of Applicant No.1, who was working in the railway, was run over alongwith two other railway employees by a train and all the three were killed on 16-6-1971. It is stated that the widows of the two colleagues of the Applicant's husband were given employment on compassionate grounds but the Applicant had been denied such facility arbitrarily. It is stated that at the time of the death of her husband, no guidance was given by the railway administration to the widow for applying for compassionate appointment of herself and both her children were minor at that time. Later, the Applicant No.2, who is the only son of the deceased, on attaining the age of majority and after making enquiries from the concerned DRM's Office, made a representation in writing on 23-5-1991 for compassionate employment. However, so far no action has been taken on the representation. Hence, this application seeking the relief of a direction to the respondents to grant family pension and other settlement dues to the Applicant and to appoint the Applicant No.2 on compassionate grounds.

2. The respondents have contested the Applicant's claim by filing a counter reply in which it has been stated that the husband of Applicant No.1 was working as CP Gangman and not as regular employee. It is stated that there was no provision for appointment on compassionate grounds to the sons of wards of casual CP Staff dying in

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harness prior to 4-5-1984. However, the widow of the other two persons, who were killed alongwith Applicant No.1 husband, were given employment on compassionate grounds by relaxing extant instructions. The Applicant No.1, however, never made any request for appointment on compassionate grounds before filing this present application. Such employment is given to provide immediate succour to the bereaved family. Since Applicant No.1 never requested for compassionate appointment, similar dispensation could not be given to her.

3. The Applicant has filed a rejoinder reply in which it has been stated that Applicant No.1 being an illiterate villager was not aware about the rules and, therefore, she could not represent for her appointment but she did represent on coming to know that the other two widows had been given appointment, but such representation had no effect.

4. Heard Learned Counsels for both the parties and carefully perused the records.

5. Two substantive reliefs have been claimed in this application. One is for compassionate appoint of Applicant No.2 and the second is for grant of family pension. Since these two reliefs are not consequential with reference to each other, the application is prima facie not maintainable as it suffers from multiplicity of reliefs. The learned counsel for the applicant, however, stated

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that he would not press for the relief of family pension and in view of this I have considered the Applicant's claim for compassionate appointment only.

6. Admittedly, the husband of Applicant No.1 expired on 16-6-1971 whereas the first representation for compassionate appointment of Applicant No.2 was made on 23-5-1991 only i.e. after a lapse of nearly 20 years. The Applicants have tried to explain the delay in making the representation stating that Applicant No.1 being an illiterate widow was not aware of the relevant rules. This, however, cannot sufficiently explain such a long delay. It has been stated that Applicant No.2 was only six months old at the time of his father's death and, therefore, could not have been given compassionate employment but, then the widow herself could have applied for compassionate appointment if the condition of the family left behind by the deceased was so indigent that it required immediate succour by way of compassionate employment. In fact, the widows of the other two employees who also were killed alongwith the husband of Applicant No.1 ~~did~~ applied for compassionate appointment and were appointed. Also the Applicant No.2 would have attained the age of majority by the year 1989 but he waited for more than 2½ years thereafter before making a representation for compassionate employment. All this would indicate that the family was not in need of immediate assistance by way of compassionate employment after the death of the husband

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of Applicant No.1. Compassionate employment is an exceptional provision meant to provide immediate succour to the family of the deceased which is left in penurious condition by the death of the sole bread winner. The respondents have further stated that at the time of the death of the husband of Applicant No.1, there was no provision for giving compassionate appointment to the sons/wards of the deceased casual CP employees and that the deceased employee being a CP employee, his son or wife could not have been given compassionate employment under the extant rules. Even then the rules were relaxed in favour of the family of the other two employees who were killed and in all probabilities similar dispensation would have been given to the Applicant No.1, had she also applied for similar assistance.

7. The learned counsel for the applicant strenuously argued that rejection of the application for compassionate appointment of Applicant No.2, is violative of Articles 14 and 16 of the Constitution of India as it discriminates the applicants adversely with reference to the widows of the other two persons who were also killed alongwith the husband of Applicant No.1. Had Applicant No.1 also requested for compassionate employment at the time when the widows of the other two employees asked for it, ^{and} if after making such application, she was denied compassionate employment while such assistance was given to the other two widows, the Applicant could have validly raised the plea of discrimination. Since, however, Applicant No.1 did not

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apply, for whatever reasons, for such assistance when the other two widows asked for such assistance, the question of Applicant No.1 being discriminated against, does not arise. The learned counsel for the applicant had cited several cases in support of his contention that the rejection of the applicant's request was discriminatory. These decisions are :-

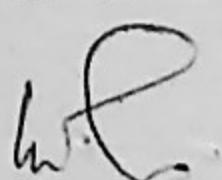
(1987) 5 ATC, 441 - Bhagwan Das Vs. UDI & Ors.

(1988) 6 ATC, 558 - Smt. Sushila Barla Vs. Union of India & Ors.

8. In view of the fact that no ground for discrimination has been made out, none of the decisions quoted above advanced the Applicant's case.

9. The learned counsel for the applicant has also cited the case of Om Prakash Sharma Vs. Union of India reported in 1992 (22) ATC 238, in support of his contention that the case is not time barred. This contention is wholly irrelevant as I have not dismissed the application being time barred.

10. The application lacks merit and is dismissed accordingly. There is, however, no order as to costs.


Member (A)

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