

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 28th day of October, 1998

Original Application No, 564 of 1993

District : Siwan

CORAM :

Hon'ble Mr. S.K. Agrawal, J.M.

Smt. Raupadi Levi widow of
Late Jag Bandhan Tiwari, Ex. Driver
'B' R/o Village Kohar Ballis,
Post Vilauri, District Siwan.

(Sri Arvind Kumar, Advocate)

..... Applicant

Versus

1. Union of India through the
General Manager,
North ~~RRR~~ Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager,
North Eastern Railway, Varanasi.

(Sri Prashant Mathur, Advocate)

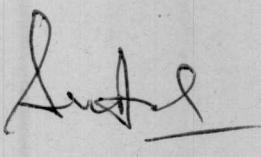
..... Respondents

ORDER

By Hon'ble Mr. S.K. Agrawal, J.M.

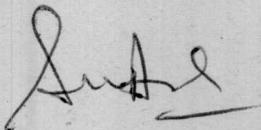
In this OA the applicant makes a prayer to direct the respondents to appoint the applicant's son on compassionate ground on a suitable post.

2. In brief the facts of the case as stated by the applicant is that the applicant's husband Sri Jag Bandhan Tiwari who was Driver 'B' in North Eastern Railway died in accident on duty on 15-7-1981. The applicant submitted an application for her eldest Sri Ram Nath Tiwari for compassionate appointment but Sri Ram Nath Tiwari was not found fit for being appointed on Class III post and, therefore, offered Class IV post which he did not accept as it was not possible to sustain the family on such meagre emoluments and requested that when third son Sri Anil Kumar Tiwari becomes major, he may be given appointment on compassionate ground. The name of Sri



Anil Tiwari was registered at serial No. 434 of register of 1981 and the applicant relied on the assurance that her third son may be considered for appointment on compassionate ground after May, 1992, but when the applicant's son became major, he filed a representation but the applicant was informed by letter dated 14-12-1992 that his application is not of worth consideration. It is submitted that the refusal by the respondents is arbitrary and without basis. Therefore, by this OA the applicant makes a prayer to quash the order dated 4-12-1992 and to direct the respondents to consider the applicant's son for compassionate appointment on a suitable post.

3. The counter was filed by the respondents. In the counter affidavit the factum of death of the railway employee was admitted and it was also stated that the applicant's son who filed an application for appointment on compassionate ground after the death of his father, was considered. He was also called to appear in the suitability test on 28-12-1981 and 29-12-1981 but he could not qualify. Thereafter, he was offered Class IV post but he did not turn up to joint the post for the reasons best known to him. It is also admitted that the widow (applicant) requested to register the name of her third son, namely, Sri Anil Kumar Tiwari, who was minor at that time but merely registering his name by the respondents does not give him any right for appointment. The appointment on compassionate ground other than his first child can be considered by General Manager within five years. Beyond five years cases can be considered only in respect of first ward but not after 40 years from the death of the deceased employee. Thus, it is submitted that this application is barred by limitation. It is also stated



that the request of the applicant has already been considered by the competent authority but since he has not turned up to join the offer, now he is not entitled to seek any relief sought for after.

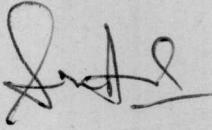
4. In this OA on the basis of averments made in the counter, the respondents have requested to dismiss the OA with costs.

5. Rejoinder has also been filed reiterating the facts mentioned in the OA.

6. Heard learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record carefully.

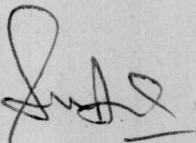
7. Learned lawyer for the applicant submitted that refusal to consider the appointment on compassionate ground to the son of the applicant(widow) by the impugned order dated 4-12-1992 is arbitrary and without any basis in view of the fact that the name of Sri Arvind Kumar was registered by the respondents.

8. Learned counsel for the respondents, while projecting this argument had submitted that after the death of the railway employee, the job was offered to Sri Ram Nath Tiwari (son of the deceased) immediately as per his suitability but he did not turn up, meaning thereby that no indigent circumstance existed at that time. It is submitted that after 10 years, the widow had filed this OA, which is barred by limitation. He has also submitted that no indigent circumstances existed in the family. Therefore, the General Manager (P) has rejected the prayer of the applicant vide impugned order dated 4-12-1992. Merely registering name does not confer any right to the applicant.



9. I gave thoughtful consideration to the rival contentions of the parties and perused the case thoroughly.

10. Admittedly, Jag Bandhan Tiwari died on 15-7-1981 on duty who was working as a Driver (B) in North Eastern Railway and just after the death of Jag Bandhan Tiwari, his son Sri Ram Nath was offered employment of Class IV post as he was not found suitable for Class III post but Sri Ram Nath Tiwari did not like to join. Now after 10 years the widow has come up for considering his third son for appointment on compassionate ground and on refusal by the impugned order dated 4-12-1992, this OA has been filed on 8-4-1993 which appears to be barred by limitation. As per the Railway Board instructions, cases for appointment on compassionate ground can be considered within five years from the date of the death of the deceased employee and beyond five years, the case of first ward can be considered but not beyond 10 years, cases can be considered. In UOI Vs. Bhagwan Singh 1995 (31) AIC 736, it was held that the application filed by the last mentioned son ~~xxx~~ beyond five years from the year of death of the deceased and beyond one year from the date of his attaining the majority, is patently barred by limitation. In the instant case definitely this OA has been filed after 10 years from the date of the death of the deceased employee. Therefore, this application appears to be barred by limitation.



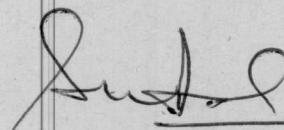
11. In the instant case, the respondents have already considered the request of the applicant by offering the job to her elder son Sri Ram Nath Tiwari for Class IV post but Sri Ram Nath Tiwari did not turn up to join and this application has been moved by the widow after the period of 10 years by making a request

for her third son to consider him for appointment on compassionate ground, meaning thereby that no indigent circumstance existed at that time. Merely, the name of the third son was registered does not confer any right to the applicant for consideration for appointment on compassionate ground.

12. In Umesh Kumar Nagpal Vs State of Haryana it was held that the whole object of giving compassionate appointment is thus to enable the family to tide over the sudden crisis. The object is not to give the member of such family a post much less a post held by the deceased whatsoever. Further, mere death of an employee in harness does not entitle his family to any such source of livelihood.

13. In view of above legal proposition and facts and circumstances of the case, the applicant is not entitled to relief as sought for.

14. Therefore, this application is dismissed with no orders as to costs.



Member (J) 28/10/98

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