

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD

This is the 10th day December of 1996

ORIGINAL APPLICATION NO. 762 OF 1995

Hon'ble Mr. D. S. Baweja, Member (A)

1. Govind Prasad Yadav son of Late Sri Shiv Charan Yadav, resident of Village Jhari, Post Office, Janghai, District Allahabad
2. Srimati Kabudri Devi wife of Late Shiv Charan Yadav, village Jhari, Post Office, Janghai, District Allahabad - APPLICANTS  
(C/A Sri R. Ojha)

Versus

1. Union of India through Secretary Ministry of Railway, Railway Board Rail Bhawan, New Delhi
2. General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi
3. The Divisional Railway Manager, Divisional Office, Northern Railway, Lucknow - RESPONDENTS

(C/R Sri A.K. Gaur)

JUDGEMENT

(Hon'ble Mr. D.S. Baweja, Member (A))

This application has been filed under Section 19 of the Central Administrative Tribunal Act 1985, jointly by the two applicants; widow and her son praying for quashing the order dated 25.3.1995 of the Divisional Railway Manager refusing the compassionate appointment and to issue direction to Ministry of Railways through the General Manager, Northern Railways to consider the applicant No.1 for compassionate appointment on a suitable post.

2. The facts of the case detailed by the applicant are as follows:

The father of the applicant No.1 Late Sri Shiv Charan

(C)

while working as Gangman under Permanent Way Inspector, Janghai, Lucknow Division, Northern Railway died in harness on 29.10.72 leaving widow and two minor sons. Widow made an application for compassionate appointment for herself vide letter dated 12.9.73 endorsing a copy to the General Manager, Northern Railway, Headquarters Office. However, no compassionate appointment was given. This was followed by another representation dated 30.1.76 and there was no response to this application also. The elder son of applicant No. 2 i.e. widow was physically handicapped and mentally retarded and his case for compassionate appointment was rejected. Subsequently applicant No.1, who is the second son of the widow applied for compassionate appointment vide application dated 30.5.90 after he became major to the Divisional Railway Manager, Lucknow Division. This was followed by reminders dated 16.2.91, 9.4.92 and finally the Divisional Railway Manager, Lucknow, vide letter dated 25.3.95 has rejected the request of the applicant No.1 for appointment on compassionate ground. Being aggrieved, this application has been filed on 28.7.95.

3. The applicants have pleaded that both the applicant No.1 as well as No.2 ~~was~~ <sup>were</sup> eligible for compassionate appointment as per extant rules but the compassionate appointment ~~has~~ <sup>ment</sup> been denied. The applicants have been diligently pursuing the matter for compassionate appointment and any delay which has ~~been~~ taken place is not attributable to them. The ~~reasons taken~~ place is not attributable to them. The reasons advanced in the impugned order dated 25.3.95 are not tenable as inspite of repeated representations no action was taken by the Divisional Railway Manager, Lucknow. The retirement benefits received were very meager and it is difficult to maintain family with the same. The case of the applicant No.1 could be considered by the General Manager ~~of~~ Railway Board for relaxation of the time limit but the same had not been done by the Divisional Railway. The applicants have

relied upon the Railway Board letters dated 30.4.79 (A-7), 1.3.85 (A-8) and dated 21.8.87 (A-9). The applicants have also sought the support of the judgement in O.A. No. 488/89 decided on 21.12.92 (A-16) wherein Tribunal has directed to grant the appointment to the applicant even at the belated stage and ratio of this judgements equally applies in the applicant's case.

4. The respondents have opposed the application by filing the counter reply. The respondent have submitted that the widow did not apply for job for herself after death of her husband and the applications dated 12.9.73 and 13.1.76 have not been received in the office of the Divisional Railway Manager Lucknow. The widow also did not apply for the compassionate appointment for her eldest son after attaining the age of majority with medical certificate regarding physical and mental incapability for consideration for appointment. Since no application either from the widow or for her eldest son for appointment had been received in the office as such no action could be taken for the compassionate appointment and all the averments made by applicant No. 2 are denied. The second son applicant No. 1 also made application for the compassionate appointment vide letter dated 13.5.90 much after attaining the age of majority. The compassionate appointment had been considered by the competent authority but same was not accepted as widow, who was the natural guardian and eligible for compassionate appointment after death of her husband did not apply. The eldest son became major in 1977, itself, did not make any application for compassionate appointment. The family has sufficient cultivated land for source of their livelihood in addition to the receipt of settlement dues. Since no application was made within the stipulated time limit ~~2222~~ proves that the family did not require the job on compassionate ground. The purpose of the compassionate appointment is to provide quick relief to the family of deceased employees and

any compassionate appointment after a period of  $\frac{30}{17}$  years does not meet with this objective. In view of these facts none of the grounds taken in the petition are tenable and, therefore, the application has no merits and deserves to be dismissed.

5. Heard the Learned Counsel of the parties, We have also given careful thought to the material on record and pleadings made during the hearing.

6. The death of husband of the applicant No.2 took place on 2.10.1972. The widow (Applicant No.2) claims that she made an application for her appointment first 12.9.73 and thereafter on 30.7.76. She also submits that the appointment of her eldest son <sup>who</sup> is mentally and physically handicapped had been also rejected. The respondent, on the other hand totally deny the receipt of the application either in 1973 or in 1976. With this position in either side, even taking that the widow had applied for job in 1973, It is obvious that she did not pursue the matter and then represented only in 1976. There after she kept quiet and the applicant No.1 applied for appointment i.e. second son only in 1990. There is no submission as to why the matter was not pursued. In case there was no response to her application dated 12.9.73, she could have <sup>had</sup> represented the matter to higher authorities or agitated for legal remedy. Her averment that the case of the eldest son, who was the next eligible for job and is physically handicapped and mentally retarded was rejected does not appear to be plausible. The eldest son had attained the age of 18 years in 1975 and there is no reference to her eldest son in the representation dated 3.7.76 brought on the record. No reference is also given as to when the request for appointment was rejected. The widow appears to have made <sup>a</sup> presumption that the eldest son would not get the job and she had second son in her mind for compassionate appointment. This perhaps explains her

silence till 1990 when the second son attained the age of majority.

7. The applicant has sought the support of the judgement dated 21.12.92 in O.A. No. 488/1989 of this Bench (Annexure 16). I have gone through the judgment carefully. In this case the widow was not in a position to take up the job. The first child was daughter and married and the second child, son was not of sound mind and, therefore, on attaining the <sup>age</sup> of majority, widow desired job for the third child. This intention has disclosed in her representation to the authorities concerned. In the present case, the widow claims to have applied for job. She did not disclose or informed the Administration at any stage till 1990 that she wanted job for the second son <sup>on</sup> attaining the age of majority. Thus the two cases are distinguishable on facts and circumstances. Therefore, the ratio of judgement is cited not applicable to the applicant's case.

8. The aim of the granting compassionate appointment is to provide immediate relief to the distressed family on account of the death of the bread winner. Any belated request after several years defeats the very purpose of the scheme and also indicates that family was not in dire need of immediate relief. The compassionate appointment <sup>to</sup> cannot be used for gaining employment. This is what is held by the Apex Court <sup>in</sup> the case of " Smt. Sushma Gosain and others Vs U.O.I. " ( A.I.R. 1989 S.C. 1976) in Para 4. In the judgement P. Ravichandran Vs U.O.I. ((1993)23 A.T.C. 921) where referring to the judgement of the Apex Court mentioned above, belated claim for appointment on compassionate ground after 19 years was rejected. In several subsequent judgments such as " Life Insurance Corporation of India Vs Asha Rancharandra Ambedkar (1994) 2 SCC 718, Umesh Kumar Nogpal Vs State of Haryana and others" (1994) 4 SCC 138 similar views have been impressed. In the present case the claim for compassionate

appointment had been made in 1990 after 17 years and the widow has not explained convincingly as to why she did not pursue the matter after initial application in 1973 even if the same is accepted as true.

9. In the circumstances detailed above, I ~~did~~<sup>d</sup> not find any justification for interfering with the impunged order. The application is accordingly dismissed with no order as to cost.

*S. Runcis*  
MEMBER (A)

RJ