

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

original Application No. 1619 of 1999

this the 7th day of March 2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Vijai Bahadur, S/o late Sri Nar Bahadur, R/o C/o Alauddin Ansari
-i Gulam Ishapur Main Road, Bhadohi District Sant Ravidas Nagar.

Applicant.

By Advocate : Sri S.K. Chaubey (absent)

Versus.

1. Union of India through General Manager, N.R.,
Baroda House, New Delhi.
2. Divisional Railway Manager, N.R., Varanasi.
3. Chief Commercial Manager/C's Office, Railway
Station Building, Varanasi.

Respondents.

By Advocate : Sri M.K. Sharma for Sri A.K. Gaur.

O R D E R (ORAL)

By this O.A., applicant has prayed for the
following relief(s):

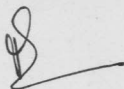
"(i) to issue any order or direction in the nature
of mandamus ignoring the order dated 2.8.93 passed
by Chief Commercial Manager, Northern Railway
Office, Railway Station Building, Varanasi i.e.
contained as Annexure-1 to this Application in
Compilation no.1.

(ii) to issue any order or direction directing
the respondents to consider the claim of the
applicant and appoint the applicant in the respon-
dent department on compassionate ground.

(iii) -----


(iv) -----."

2. It is submitted by the applicant that his father
died on 31.10.1970 when the applicant was a minor. Therefore,
when he became major, he filed an application on 29.10.1975
seeking compassionate appointment (Annexure A-1), followed by



number of reminders. Vide letter dated 13.3.1979, he was called-for interview to be held on 23.3.1979 (Annexure A-2). However, by order dated 12.3.1979, he was informed that the interview is postponed till further orders (page 12), but ultimately vide letter dated 25.7.1983 his claim had been rejected as barred by time. Therefore, the case of the applicant was even taken-up by the union, which was evident from Annexure nos. A-6, A-7 & A-8. Thereafter, he gave a representation on 16.4.1999 stating how he was facing the difficulties regarding lack of finance and the assurance given by the Employees' Union, but ultimately when he was informed by the union that his case was rejected, he had no other option, but to file the present O.A.

3. The respondents have opposed the O.A. and have submitted that the order challenged by the applicant in this O.A. was passed on 2.8.1983, while the O.A. has been filed in December '99, therefore, according to Section 21 of the A.T. Act, 1985, the O.A. is highly time barred as such the same is liable to be dismissed on this ground alone. On merits, they have submitted that the applicant's father died on 31.10.1970 and the respondents received an application for compassionate appointment on 1.3.1979 for the first time as per records (Annexure R-1). Thereafter, the applicant was called-for the interview, but since there was some confusion with regard to the name of the applicant as in his application, his name was mentioned as Vijaiman Tamarker instead of Vijai Bahadur. In the subsequent letter also, it was shown as Vijai Bahadur and even in the School leaving certificate, his name was shown as Vijai Bahadur, therefore, it was not clear as to who is the actual person. The transfer certificate is annexed as Annexure R-2. However, thereafter when it was clarified that his name was Vijai Bahadur, his case was considered and since it was highly time barred case, the same was rejected on 4.7.1979. They have further submitted that as per document, applicant's date of birth is 26.7.1954, accordingly he



attained the majority on 26.6.1972, therefore, the case was totally barred by time, yet his case was referred to the Railway Board for condonation of delay, but the Railway Board also rejected the same. They have, thus, submitted that the O.A. is devoid of merits and needs to be dismissed with costs.

4. It is seen that the Counter was filed by the respondents as way back as on 26.2.2001, but till date no Rejoinder has been filed by the applicant, nor his counsel is present today. perusal of the Annexure A-1 filed by the applicant himself shows that he was 20 years of age on 29.10.75, that means even as per his own case, he had attained majority in the year 1973 and the respondents have submitted that the first application received was only on 1.3.1979, which is annexed as Annexure R-1, meaning thereby that even after attaining the majority, the applicant did not apply for compassionate appointment for good six years, which is a very important factor in the case of grant of compassionate appointment because if a person does not even apply for compassionate appointment for such a long period after the death of his father, it clearly shows that the condition of the family is not so bad and if he is able to survive for more than nine years without any assistance from the department, definitely no interference is called for because it cannot be said that the family is in indigent condition. In the instant case, it is seen that the applicant's request was first rejected on 4.7.1979 and even the order which is annexed by the applicant himself with the petition is dated 2/8.1.1993 at page 8 of the O.A. As per Section 21 of the A.C.T. Act, 1985, limitation for filing of O.A. is one year from the date of cause of action arose. Even if the cause of action ^{is B} taken from the year 1993 i.e. the order which is annexed by the applicant himself, still this case is barred by limitation as he has filed the present O.A. only on 16.12.1999, six good years after the rejection of his claim for compassionate appointment even as per his own case, therefore, it is clear that the O.A. is

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barred by limitation. In the case of Ramesh Chandra Sharma Vs. Uddham Singh the Hon'ble Supreme Court has held that if a case is barred by limitation, the Tribunal cannot even entertain the same or waive the delay unless an application for condonation of delay is filed by the applicant. In the instant case, no application for condonation of delay has been filed by the applicant. Accordingly, this case would be fully covered by the decision given by the Hon'ble Supreme Court in the above referred case. Accordingly, this O.A. has to be dismissed on the ground of limitation as well as on merits both. No costs.



MEMBER (J)

GIRISH/-