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Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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Original Application No. 135 of 2000
this the 11th day of March 2003.

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

Sri Ram, s/o late Devi Deen, R/o 149/D-2 Malak Raj,
Allahabad.

Applicant.

By Advocate : Sri P.C. Jhingan (Absent)

Versus

1. Union of India through the Secretary, Ministry of Railways, New Delhi.
2. General Manager, N.E.R., Gorakhpur.
3. D.R.M., N.E.R., Varanasi.
4. Divisional personnel Officer, Varanasi Division, N.E.R., Varanasi.

Respondents.

By Advocate : Sri A.K. Gaur.

ORDER (ORAL)

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

"(i) That the applicant may be given compassionate appointment in the NER in according to his qualification (B.A.) retrospectively for 1988 when he submitted his first application for compassionate appointment on 15.9.88 enclosure no.2 to Compilation no.2

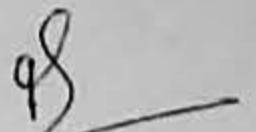
(ii) That the impugned order/letter no.Ka./239/2425 Anu. dated 7.4.99 rejecting the case of the petitioner for compassionate appointment to be time barred may kindly be quashed."

2. It is submitted by the applicant that his father late Sri Devi Deen, s/o Mangli was a permanent railway employee in NER under Varanasi Division, posted as Safai Karamchari. His father died on 24.4.1975 in Divisional Railway Hospital, Varanasi, and in his place the mother of the applicant was given compassionate

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appointment as Casual Safai Karamchari, but she was removed in screening due to over age and since the applicant was a minor at that time, he could not press for his appointment on compassionate grounds. It is submitted by the applicant that he attained majority in the year 1988, accordingly, he submitted an application for compassionate grounds on 15.9.88 (Annexure A-2). Thereafter, he gave number of representations, but the respondents did not respond to his representations. However, vide their final order, the applicant's case was rejected as being time barred. It is this order which has been challenged by the applicant in this case. By order dated 7.4.1999, the applicant was informed that the deceased employee late Sri Devi Deen had died on 24.4.1975, and even he had attained the majority in the year 1988, but the first application given by the applicant is dated 4.8.1998, therefore, this case is totally time barred having been made after 11 years (Annexure A-1).

3. The respondents have opposed the O.A. on the ground that this case is totally barred by limitation, therefore, cannot be re-opened now as according to the applicant's own averment, his date of birth was 10.7.1970 therefore, he attained majority in the year 1988, but thereafter no application was filed by either the mother of the applicant or the applicant himself and the first application moved by them was 21.8.1998. They have relied on the Railway Board's letter dated 30.11.1999 wherein it has been laid down that application for compassionate appointment should be moved within two years in case of being major and since within two years, the applicant had not filed any application after his attaining the majority, naturally, his request made in the year 1998 would be clearly barred by limitation. They have, thus, submitted that there



is no merit in this case and needs to be dismissed with costs.

4. Since none appeared for the applicant even in the revised call, I have heard the respondents' counsel and perused the pleadings available on record.

5. Admittedly, the applicant's date of birth is 10.7.1970, therefore, he would have attained majority in the year 1988. As per the Railway Board's letter, as referred to above, he ought to have given his application for compassionate appointment within two years from the date of attaining the majority, but as per the respondents' records, first application received by them on behalf of the applicant was dated 21.8.1998, therefore, it was rightly said that the claim is time barred and was rightly rejected. After all time is very important factor in those cases where compassionate appointment is sought. In the present case, admittedly, father had died way back in the year 1975 and if from 1975 the family has been able to survive, that itself shows that the condition of the family was not so bad that they should have been given compassionate appointment especially so when no efforts were made by them to pursue their claim effectively. Even after 1988 when the son reported to have attained majority. This case has been filed only in the year 2000 meaning thereby that even if, the cause of action has to be taken from 1989 i.e. one year after the son had attained majority and when the applicant claims, though it is denied by the respondents that he had given his application for compassionate appointment in that case, he ought to have approached the Court within one year as period of limitation laid down under Section 21 of the A.T. Act, 1985 is one year from the date of cause of action. Had the condition of the applicant's family been so bad, he would have taken-up the matter immediately before

the court incase no proper reply was given by the respondents, but he was silent, as per his own averments and kept waiting for the respondents to give reply to him, which again shows that the condition of the family is not really so bad, therefore, I do not think that this case needs any interference by the Court. The O.A. is accordingly dismissed with no order as to costs.



MEMBER (J)

GIRISH/-