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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 05th day of December 2001.

Original Application no. 320 of 2000.

Hon'ble Maj Gen K.K. Srivastava, Administrative Member

1. Ram Prakash, S/o late Ghasi,  
R/o vill Baraha Khas, P.O. Pilibhit Khas,  
PILIBHIT.
2. Smt. Ram Kali, widow of late Ghasi,  
R/o vill Baraha Khas, Post Office Pilibhit Khas,  
PILIBHIT.

... Applicants

By Adv : Sri T.S. Pandey

Versus

1. General Manager, N.E. Rly.,  
GORAKHPUR.
2. Divisional Railway Manager (Personnel),  
N.E. Rly., Izzatnagar,  
BAREILLY.
3. Senior Divisional Personnel Officer,  
N.E. Rly., Izzatnagar,  
BAREILLY.

... Respondents

By Adv : Sri S.K. Anwar

ORDER

Hon'ble Maj Gen KK Srivastava, Member-A.

By this OA under section 19 of the AT Act, 1985  
the applicants have challenged orders dated 25.7.1996 &

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19.7.1999 (Ann 1 and 2) and have prayed that the said order be quashed with direction to the respondents to consider the appointment of applicant no. 1 on any post of group 'D' in the department.

2. Heard Sri TS Pandey learned counsel for the applicant and Sri SK Anwar learned counsel for the respondents and perused the record.

3. The facts of the case are that Sri Ghazi Ram was working in the respondents establishment as Boilor Mistry under Loco Foreman, Philibhit. He died in harness on 30.8.1985 leaving behind his sole son (applicant no. 1) and his widow Smt. Ram Kali (applicant no. 2). As per the learned counsel for the applicant, applicant no. 2 applied for applicant no. 1 for compassionate appointment on 6.7.1992, which has been denied by the respondents. The date of birth of applicant no. 1 is 1.7.1975 and, therefore, the application dated 6.7.1992 is not very material. The respondents informed applicant no. 2 vide letter dated 30.1.1986 (Ann. 6) that family pension and other settlement dues were under consideration and copy of the same was forwarded to the Welfare Inspector for necessary action. The endorsement by Welfare Inspector also speaks about the necessary action to be taken for appointment of applicant no. 1, Sri Ram Prakash, son of the deceased employee. As per the applicant nothing was heard till 1993. Learned counsel for the applicant invited my attention to annexure A-8 and submitted that another application was sent to the respondents on 15.3.1993 by

applicant no.2 for appointment of her son i.e applicant no.1. followed by reminder dated 28.6.1994 (Ann A-9). The applicant no. 1 attained the majority on 30.6.1993 and that is the date when he was eligible for appointment in the respondents establishment.

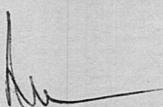
4. Sri T.S. Pandey submitted that perusal of annexure 10 would reveal that the case of the applicant no.1 for compassionate appointment was under consideration as the same has been received by Welfare Inspector. The proforma for compassionate appointment is dated 13.4.1995. However, the respondents vide their letter dated 8.12.1994 rejected the request of applicant no. 2 with reference to her application in this connection dated 21.9.1994. Learned counsel for the applicant submitted that applicant no. 1 is the sole bread earner and since the widow of Sri Ghasi Ram is illiterate, she had no option/to run from pillar to post to get her son employed in the respondents establishment. In case applicant no. 1 is not provided with compassionate appointment and remains unemployed it will result into financial distress for the widow.

5. Sri S.K. Anwar, learned counsel for the respondents contested the claim of the applicants on 2 grounds. Firstly, that the first application with reference to compassionate appointment of applicant no. 1 was received on 21.9.1994, i.e. 15 months after the applicant no. 1 attained the majority. As per Railway Board letter dated 18.4.1990 (Ann. CA-1) which lays down that the application should be submitted within 1 year after attaining the majority and since this application was submitted after one year after attaining the majority, the respondents were justified in rejecting

the same by letter dated 8.12.1994 (Ann 11). The second ground adduced by Sri SK Anwar is that the matter stood closed in 1994 and the OA has been filed only in the year 2000, hence, it is highly time barred and does not merit any consideration. He has also refuted receipt of any application dated 15.3.1993 and reminder dated 28.6.1994 by the respondents.

6. I have given due consideration to the submissions made by learned counsel for the parties and perused records.

7. It is evident from the perusal of records that the applicant no. 2 is illiterate lady and the only bread earner for her is applicant no. 1. Even, if it is accepted that the first application was made on 21.9.1994 i.e. after 1 year of applicant no. 1 attaining the majority, the respondents cannot deny that the direction was given to the Welfare Inspector by endorsement of letter dated 30.1.1986 (Ann. 6) in which the welfare Inspector was supposed to be looking into and taking necessary action for the appointment of applicant no. 1 on compassionate ground. The Welfare Inspector should have taken steps to inform the applicant no. 2 when the time was ripe for applicant no. 1 to apply for compassionate appointment. Besides I have no reason to doubt the genuineness of application dated 15.3.1993 by applicant no. 2 (Ann 8) followed by reminder dated 28.6.1994 (Ann 9). It will be in the interest of justice, if the case of applicant no. 1 is considered relaxing the rules in this regard. Perusal of annexure 2, the letter of DRM, NE Rly, Izzatnagar dated 19.7.1999 shows that this period of 1 year for applying for appointment on compassionate ground after attaining the majority has been extended to 2 years. Learned counsel for the respondents says that this amendment is prospective i.e. from 22.12.1994, issued by Railway Board. In view of this I do not find that it will pose any problem for the respondents to reconsider the issued afresh and if needed the relaxation be obtained as a special case, keeping in view



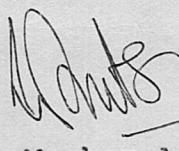
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the fact that the applicant no. 2 is an illiterate lady and applicant no. 1 is the only bread earner for the family.

8. For the above, the OA is disposed of with the direction to respondent no. 1 to reconsider the issue of the applicants afresh in the light of above observations and decide the same within a period of 6 months from the date of communication of this order.

9. There shall be no order as to costs.

  
Member-A

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