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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 9TH DAY OF JANUARY, 2001

Original Application No.512 of 2000

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI, V.C

Laxmi Shanker, son of Late Bhikari Lal  
R/o 117/222 K-Block, Ambedkar Nagar  
Gita Nagar, Kanpur.

... Applicant

(By Adv: Shri B.N.Singh)

Versus

1. Union of India through Addl. Director General  
Ordnance Equipment Group of Factories  
the Ministry of Defence, Govt. of India  
G.T.Road, Kanpur.
2. General Manager, Ordnance Equipment Factory  
Kalpi Road, Kanpur.

... Respondents

(By Adv: Shri R.C.Joshi)

O R D E R (Oral)

(By Hon.Mr.Justice R.R.K.Trivedi, V.C.)

Shri Ganga Ram Gupta holding brief of learned counsel for the respondents has submitted that the application is highly time barred and is liable to be rejected as such. In paragraph 3 of the application applicant has claimed that after the claim was rejected by the respondents by order dated 1.9.1996 applicant filed an application before the Assistant Labour Commissioner and tried that the matter may be referred for adjudication to labour court but the government declined to refer the matter then applicant filed the present application. The copy of the application filed before the Assistant aLabour Commissioner has been filed as (Annexure 1 to the application).

The respondents on the other hand, submitted that the applicant is not entitled for the benefit of the condonation

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of delay as they were pursuing remedy before the wrong forum. I have considered the submissions of the learned counsel for the parties. In my opinion, as the applicants are not law knowing persons and they <sup>were</sup> pursuing remedy before the Labour court on being advised so by others they are entitled for lenient view. The delay in filing the OA is accordingly condoned in the interest of justice.

The learned counsel for the applicant has submitted that claim of the applicants has <sup>been</sup> rejected mainly on the ground that the deceased employee left behind two major sons, one married daughter, a minor son and widow. It has also been stated that as retiral benefits they have been paid Rupees Two lacs and 120/. Considering the liabilities respondents have not find it a fit case for giving appointment on compassionate ground.

The learned counsel for the applicant however, submitted that ~~before death of~~ <sup>late</sup> Bhikari Lal was suffering from serious ailment before his death for ten years and he had <sup>been</sup> no salary during the year 1992 till his death and the amount paid was spent in repayment of the loan taken from others for his treatment. It has also been stated that both the major sons were unemployed and the applicant's father Bhikari Lal did not leave behind him any movable or immovable property. Learned counsel has submitted that all these facts were mentioned in the representation but they have not been considered. It is submitted that without considering these important factors respondents could not come to the correct conclusion and the order suffers from manifest error of law.

Learned counsel for the respondents on the other hand, submitted that amount paid is more than two lacs and it was sufficient to sustain the family till the minor sons became major. It is also submitted that the major sons are expected to earn their livelihood.

I have considered the rival submissions made by the learned counsel for the parties. However, in my own opinion the facts stated by the learned counsel for the applicant that the deceased employee was lying ill for ten years before his death and he has not left any movable or immovable property

were the important facts for deciding the question as to whether the family <sup>be</sup> observed help also by giving compassionate appointment. The applicant through representations filed as (Annexure 5) placed all these facts but they have not been taken into account as clear from the impugned orders.

Considering the facts and circumstances this application is disposed of finally with a direction to the respondent no.2 General Manager, Ordnance Equipment Factory, Kalpi Road, Kanpur to consider the claim of applicant for appointment on compassionate ground afresh in the light of the observations made above within three months from the date a copy of this order is filed before him. It shall be open to the respondent no.2 to require applicant to submit such material which may establish the aforesaid facts. The order passed by him shall be a reasoned order. No order as to costs.

  
VICE CHAIRMAN

Dated: 9.1.2001

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