

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD.

Original Application No. 718 of 2000.

Friday, this the 03rd day of January 2003.

Hon'ble Mrs. Meera Chhibber, J.M.

Mahabir Yadav
s/o Late Lal Pati,
r/o Village Bajidpur,
P.O. Dalan Chhapra,
District Ballia.

.....Applicant.

(By Advocate : Sri D. Prasad)

Versus.

1. Union of India
through Secretary,
Ministry of Railways,
New Delhi.
2. Chairman Railway Board,
New Delhi.
3. Chief Works Manager,
Eastern Railway Kanchana Para
District North 24 Pargana
West Bengal.
4. General Manager,
Eastern Railway,
17 Neta Ji Subhash Chandra Road,
Calcutta.
5. Personnel Manager (Works)
Kanchana Para, Eastern Railway
North 24 Pargana West Bengal.

.....Respondents.
(By Advocate: Sri D.C. Saxena).

O_R_D_E_R

By this O.A., the applicant has sought direction
to the respondent No.2 to decide the representation of
the applicant ^{ah 8} Annexure Nos. 4 and 8 to the O.A.

2. It is submitted by the applicant that the father of the applicant was serving in the Eastern Railway as Wire Man at Kanchara Para North 24 Pargana, West Bengal and during the Second World War, the service of

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the applicant's father was requisitioned by the Indian Army and he served in the Army as Sepoy. While fighting the enemies, the applicant's father became disabled and he was sent back to his original post of Wire Man in the Eastern Railway. It is submitted by him that he was assured that his son would be given suitable employment in the Railways, whenever, he becomes eligible for employment. Accordingly when the applicant became major and passed his High School Examination, he alongwith his mother Smt. Mahodari Devi made representations to the respondents for being given a suitable employment in the Railways, but no reply was given to them. Therefore, finding no other option, the applicant had to file the present O.A.

3. The respondents have opposed this O.A. and have taken preliminary objection to the maintainability of the O.A. itself. It is submitted by them that the wife of Late Lalpati Ex-T/No. 2607 ex-Wireman of Shop No. 26 Kanchara Para moved an application dated 17.02.1995 for the grant of appointment on compassionate grounds. The Welfare Inspector was deputed and he revealed as under:

(i) The deceased employee T/No. 2607 died on 13.08.1990 after his superannuation from Railway service w.e.f. 30.06.1972.

(ii) The wife of Late Lalpati Smt. Mahodari Devi has already been granted exgratia pension and she is withdrawing the same accordingly. Moreover, Smt. Mahodari Devi has 3(three) sons and 2(two) married daughters.

Sri Mahabir Yadav is the third son of Late Lalpati. and since he superannuated as back as on 30.6.1972 and died much after that i.e., 13.8.1990. No compassionate appointment is permissible in his favour as per the circular issued by the Railway Board from time to time. Accordingly they have prayed that the O.A., may be

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dismissed with costs.

4. Applicant's counsel submitted that his case is based on the assurance given by the Britishers that his sons would be given appointment on attaining majority and since the son attained majority in the year 1995, he was entitled to be given appointment as per Britisher's assurance.

5. I have heard both the counsel and perused the pleadings as well.

6. A simple calculation would show that if the son had attained majority in the year 1995, as stated by the applicant's counsel, he would not have even born in the year 1972 when his father had superannuated in the year 1972. He ^{was} ~~would not be~~ able to show me any Rule or Law which says that even the ^{Who B} ~~child~~ ^{ever} ~~which~~ has not taken birth, would be given ^{an} appointment on compassionate grounds, after he attains the majority. In the instant case, the applicant's father had superannuated in the normal course, after completing his service in the year 1972 and had died much later in the year 1990. Therefore, I do not see any merit in the contention that the son is entitled to be given appointment on compassionate grounds. Even otherwise, even if it is admitted for the sake of arguments that any assurance was given by the Britishers to the applicant's father, that cannot be executed by way of filing the O.A. in the year 2000. It would be relevant to mention here that the Tribunal came into existence by virtue of A.T. Act 1985 and as per section 21(2) of the A.T. Act 1985, it makes it clear that notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates: and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub section (1) or within a period of six months from the said date, whichever period expires later. In the A.T. Act 1986 (1) ATC Vol.3 page 203 in the case of V.K. Mehra Vs. Secretary, Ministry of Broad Casting. It has already been held that the Administrative Tribunals Act 1985 does not vest any power or authority in C.A.T to take cognizance of the grievance arising out of the order passed prior to 1.11.1982. In view of the above decision, I am of the considered view that this Tribunal cannot even entertain such a case, as it is beyond the jurisdiction of the Tribunal.

Even otherwise the Hon'ble High Court has held in 2000 S.C.C (L&S) 53 in the case of Ramesh Chandra Sharma Vs Udhamp Singh Kamal ^{Supreme C} The Tribunal cannot entertain petition barred by limitation, as limitation cannot be waived unless it has been applied for. In the instant case, the applicant's father had superannuated way back in the year 1972. The period of limitation as

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prescribed under the Act is one year. Therefore, I find that this application is also barred by limitation as this is filed in the year 2000 when no cause of action arose. Accordingly this case is barred by limitation as well as by jurisdiction. The same is accordingly dismissed with no order as to costs.


Member (J)

Manish/-