

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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Original Application No. 844 of 2000-
this the 4th day of March 2003.

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

1. Kanchan Mansoori, aged about 55 years, s/o Sri Laloo, R/o 10 Bhatiyana, Near Nehru Inter College, Mahoba.
2. Mohd. Iqbal Mansoori, aged about 24 years, s/o Sri Kanchan Mansoori, R/o 10 Bhatiyana, Near Nehru Inter College, Mahoba.

Applicants.

By Advocate : Sri R.K. Nigam (absent).

Versus.

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. D.R.M., Central Railway, Jhansi.
3. Chairman, Railway Board, Rail Bhawan, New Delhi.

Respondents.

By Advocate : Sri Anil Kumar.

O R D E R (ORAL)

This O.A. has been filed by two applicants claiming a direction to the respondents to consider applicant no.2 for compassionate appointment vice his grand father late Sri Laloo, who died in harness on 24.6.61. Applicant no.1 is the son of late Sri Laloo who has stated that he gave an application on 17.11.99 for his son (Annexure-2). As per this application, the grand father of the applicant no.2 was declared medically unfit on 19.7.58 and died on 24.6.61. It is submitted by the applicants that this request was rejected orally on the ground that compassionate appointment cannot be granted to grand son which is

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contrary to the judgment given by the Hon'ble High Court. Therefore, he requested to refer the matter to the Railway Board, but since no response was given, he gave a legal notice to the Divisional Railway Manager (Admn.). Since respondents have not even replied that, he had no other option, but to file this O.A.

2. Respondents have opposed the O.A. and have submitted that applicants have not come to the court with clean hands inasmuch as in the O.A. they have stated that Sri Laloo died while in harness, whereas in his ~~owner~~ application he has stated that Sri Laloo was medically decategoried on 19.7.58 and died later on 24.6.61. Thus, the O.A. is liable to be dismissed on this ground alone. They have further submitted that the applicant no.1 the son of the employee was 10 years old at that time as per his own discription given in the O.A. showing himself to be 55 years of age at present, but he never applied for compassionate appointment. On the contrary, as per applicants' own averments, the first application was given by the applicant no.1 on 10.11.99^{that too 92} for employee's grand son i.e. 42 years after employee's death.

3. They have further submitted that in 1961 Tribunal was not even in existance as A.T. Act was notified only in 1985 and any matter where cause of action had arisen three years prior to the date of notification would not even come within the jurisdiction of the Tribunal. Thus, the O.A. is not only barred by limitation, but by jurisdiction as well. More-over, Sri Laloo had died at the age of 61 years in 1961, therefore, such old records are not available. They have also denied that any application was given by the applicant no.1 or that the same was rejected orally as alleged by the applicants. They have also

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submitted that as per GMP letter dated 6.4.99 compassionate appointment towards medically decategorised is restricted upto five years from the date of medical decategorisation. They have, thus, prayed that the O.A. may be dismissed with costs.

4. None was present on behalf of the applicants even in the revised call and the earlier directions were also not complied with by the applicants' counsel, therefore, I could have dismissed the O.A. in default and for non-prosecution as well, but since this O.A. is absolutely mis-conceived and is totally devoid of any merits. I am deciding the same on merits after hearing the respondents' counsel by resorting to Rule 15(1) of CAT (procedure) Rules 1987.

5. Perusal of the Annexure A-2 shows that the applicant no.1 had himself stated therein that his father late Sri Laloo was medically decategorised on 19.7.58 and died on 24.6.61. If that be so, it cannot be said that Sri Laloo died while in harness and since he did not die ^{while} in harness, the whole basis of the applicants' claim is mis-conceived, therefore, this O.A. is not sustainable in law. Even otherwise, if Sri Laloo had died in 1961, then the applicant no.1 could have applied for compassionate appointment, but admittedly there was no such request made by him. The first application as per applicants' own averments made on 17.11.99 (though it is denied by the respondents). Thus, this case is absolutely barred by limitation as well as jurisdiction both because Tribunal cannot even take cognizance of a matter where cause of action had arisen more than three years before November '85. It has been held in ATR 1986 (1) CAT 203 in the case of V.K. Mehra Vs. Secretary Information & Broadcasting that the Administrative

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Tribunals Act 1985 does not vest any power or authority in CAT to take cognizance of grievance arising out of an order passed prior 1.11.1982, therefore, this O.A. has to be dismissed on this ground alone. Even otherwise, applicant has himself stated that his father died in the year 1961, therefore, if any right had ~~to be~~ ^{in fact} accrued, in the year 1961 and he could not have re-agitated the matter after over 42 years by ^{→ simply} giving ~~any~~ application to the authorities to consider his son and employee's grand son for compassionate appointment. The law is well settled that compassionate appointment cannot be sought as a matter of right, but can be granted only in exceptional cases where the family is in total~~ly~~ indigent circumstance. In the instant case, since the applicant no.1's father had been medically decategorised in the year 1958 and he died thereafter in the year 1961, by no stretch of imagination, it can be said that he died in harness. More-over, the applicant no.1 has not explained as to why he did not apply for grant of compassionate appointment when he was very much alive and how he can ask for grant of compassionate appointment in favour of his son. The very fact that the applicant no.1 after the death of his father did not ^{apply} even ~~for~~ compassionate appointment shows that there was no such indigent circumstances in the family which would call for immediate assistance by the department. The applicants' counsel has relied on judgment which is not even annexed with the O.A., but perusal of the extract, which is annexed by the applicants' counsel shows, in that case father had already pre-deceased the grand son. Therefore, that case can be no help to the applicants, [!] in the present circumstances when the applicant no.1 was very much alive. Even otherwise, delay is very important factor in the case of compassionate appointment because the very fact that

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the family could survive for good 42 years, itself, shows that the applicants ~~no. 1~~ are not entitled for any relief as claimed by ~~him~~.

6. In view of the above discussion, this O.A. is absolutely devoid of any merits. The same is accordingly dismissed with no order as to costs.



MEMBER (J)

GIRISH/-