

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER 1456 OF 2002

WEDNESDAY, THIS THE 8th DAY OF JANUARY 2003

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

Raj Kumar Chauhan,
s/o Late Shri Ram Suchit Chauhan,
r/o 36/12, Bhawapur,
District - Allahabad.

....Applicant

(By Advocate : Shri D. Pathak)

V E R S U S

1. Union of India through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Allahabad.
3. Loco Foreman,
D.R.M. Office,
Northern Railway,
Allahabad.

....Respondents

(By Advocate : Shri A.K. Gaur)

O R D E RHon'ble Mrs. Meera Chhibber, Member (J)

By this O.A., the applicant has challenged the order dated 12.12.1997 and has sought a direction to the respondents to appoint the applicant in their service on compassionate ground in place of his father.

2. The brief facts as alleged by the applicant are that applicant's father Late Shri Ram Suchit Chauhan was appointed as cleaner on 08.02.1939 and was promoted as Driver Grade-C in the Control of Loco Foreman, Northern Railway, Allahabad. Finally he was discharged from service on 09.07.1968 vide letter dated 21.02.1969 (Annexure-2). In the said letter it is written since you have declined to accept alternative appointment of

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Greezer Incharge under the office notice No.831-E/1-11 A (E.M.I.) dated 03.01.1969. You are hereby discharged from service w.e.f. 09.01.1969, after expiry of 6 months of period without pay from 09.07.1968.

3. It is submitted by the applicant, that his father should have been declared as medically unfit. It is further submitted that ~~as~~ his father never refused to accept the alternative job as Greezer Incharge but at that time only asked for his personal pay under the rules but instead of allowing the same, he was illegally, arbitrarily discharged from service. It is further submitted that his father even submitted his application on 03.04.1969 for voluntary retirement but the same was not acceded to. His father died on 23.10.1983 (Annexure-6).

4. The grievance of the applicant is that since his father was arbitrarily and illegally discharged from service without giving any alternative job and applicant was not a major at that time. Therefore, no application for compassionate appointment for him could be made and it was only after he attained majority that the applicant's mother moved an application for granting compassionate appointment to the applicant. It is further submitted by the applicant that they also made a representation to the Hon'ble Railway Minister which was duly forwarded to respondent No.2 vide letter dated 20.11.1997 from the office of the Railway Minister under intimation to the applicant (Annexure-7). Pursuant to the Minister's letter, respondent No.2 issued letter dated 12.12.1997 in which it was stated that letter dated 30.07.1996 of the office of respondent No.2 in respect of application filed by the mother of the applicant dated 28.12.1995 has already been issued with the remark that the dependents of the medically unfit discharged personnel of the Railway Service cannot be given age relaxation. Hence her son cannot be considered



for appointment on compassionate ground. The said letter dated 23.07.1996 was stated to be attached with the letter dated 12.12.1997 but neither it was annexed with the letter dated 12.12.1997 nor it was communicated to the applicant's mother earlier. Thus the applicant has claimed that he is entitled to be granted compassionate appointment.

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

6. Admittedly, applicant's father was discharged from service on 09.07.1968 vide letter dated 21.02.1969. The applicant's father had never challenged the discharge order, even though he was alive till the year 1983 as he is stated to have died on 23.10.1983. If the applicant's father was aggrieved by the discharge order, he ought to have challenged the said order at that relevant time. Since applicant's father accepted the discharge, his son is not entitled to now rake up the issue after over a period of 23 years. Admittedly the applicant's father also died in the year 1983 whereas the first application was moved by the applicant's mother in the year 1995.

7. In my considered view, the application was rightly rejected by the respondents as nobody can claim compassionate appointment as a matter of right at any point of time it suits them. The reasons given by the respondents ~~has not been done to be~~ contrary to any rule or law and in any case in 2002, the respondents have only given reply to the Minister as he had ~~represented~~ ^{forwarded the} to them. So it does not give the applicant any fresh cause of action to file the present O.A. in the year 2002. As stated by the applicant himself if his mother had moved application in the year 1995 and they had not received the reply as alleged by them in the year 1996, they ought to have filed the O.A. within

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18 months from the date they had filed the application. But nothing was done by them. Therefore, according to me this O.A. is barred by limitation and is devoid of merit even otherwise. Accordingly the same is dismissed. No order as to costs.


MEMBER (J)

shukla/-