

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

Allahabad this the 29th day of January, 2003

Diary No. 2881 OF 2002. Original Application No. 1584/02

Hon'ble Mrs. Meera Chhibber, Member-J

Natthu Lal S/o Late Mohan Lal

R/o Vill, Pansaur, Post-Lokipur, Distt. Kaushambi.

.....Applicant

Counsel for the applicant:- Sri R.K.Mishra (Absent)

VERSUS

1. Divisional Railway Manager, Northern Railway, Allahabad.
2. Staff Grievance Cell, through the D.R.M., Northern Railway, Allahabad.
3. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

.....Respondents

Counsel for the respondents:- Sri S.N. Gaur

O R D E R (Oral)

(By Hon'ble Mrs. Meera Chhibber, Member-J)

None for the applicant even in the revised call. Since the respondents counsel has taken the preliminary objection with regard to maintainability of the O.A. itself and had already filed his objection as back as on 25.10.2002 which is not rebutted by the applicant's counsel so far, and he is not even present today to argue the case. Accordingly, I proceed to decide the case on merits after hearing counsel for the respondents by attracting Rule 15(i) of the C.A.T. (Procedure) Rules, 1987.



2. It is submitted by the counsel for respondents that father of the applicant had died on 13.02.1976 and for the first time application was moved by the applicant's mother for grant of compassionate appointment in the year 1988 followed by another application in 1991 but no heed was paid by the respondents, therefore, Sri Nattu Lal, applicant in the present case, himself filed an application on proper proforma on 29.07.1996 for grant of compassionate appointment which was rejected by the respondents vide order dated 19.11.1999 (Annexure-1) on the ground that he had not applied for compassionate appointment within two years from the date of attaining the age of majority. He moved another representation which has also rejected on 29.05.2001 (Annexure-2) by taking the same stand as taken in the order dated 19.11.1999.

3. Counsel for the respondents has further submitted that the case is absolutely barred by limitation as ~~the~~ cause of action, if any, had arisen in favour of the applicant in the year 1989 when, according to the applicant's own case,

3A. *B* respondents had not given any reply to the applicant's mother. *I have heard the counsel and perused the pleadings.* He is alleged to have given application in 1988 and even though no reply was given by respondents yet no case was filed by the applicant and he simply kept on giving application one after another. Even ~~though~~ *hereafter also when* ~~the~~ applicant's representation was ~~also~~ rejected by the respondents as per applicant's own showing on 19.11.1999 yet the applicant did not file any case and kept on giving the same representation. The present case has been filed onle on 15.07.2002 alongwith an application for condonation of delay. In the said application, applicant has stated that there is only delay of two months, therefore, the delay in filing the present case may be condoned. The reasons given the application for condonation of delay is that he is a poor man and only source of income is the pension of his mother which is itself insufficient to provide the basic needs of the

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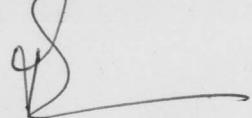
entire family of the applicant and his basic problem is that he did not have litigation expenses and then some tout kept him under some confusion by stating that he would get the relief but that never materialized and ultimately he is filing this case. It is settled law that in case of delay, in cases which are barred by limitation, persons approaching the court after the limitation period is bound to give explanation of each day's delay. In the instant case, it is seen that father of the applicant had died as back as in 1976 and even though his mother had already given application in 1988 which was not responded by the respondents, no action was taken by the applicant to approach the court. Period of limitation is one year from the date of cause of action as per Section 21 of the A.T., Act, therefore, applicant ought to have approached the court within 18 months in case his mother's representation was not replied to. Thereafter also respondents had specifically rejected the request of the applicant by passing the order dated 19.11.1999 yet the applicant did not bother to challenge the same before the court within one year but kept on giving representations, therefore, the O.A. is clearly barred by limitation. <sup>Bar repeated representations don't enterd limitation</sup> However, even on merits it is seen that the conduct of applicant itself shows that condition of the applicant was not so bad as he could survive from 1976 onwards without getting compassionate appointment, therefore, it cannot be said to be a case of total indigent circumstance. I am not satisfied with the grounds taken in application for condonation of delay accordingly the M.A. is rejected. Since M.A. for condonation of delay is rejected, the O.A. is also liable to be dismissed on the ground of limitation itself. Hon'ble Supreme Court has held in catena of judgements that compassionate appointment cannot be sought as a matter of right nor can be sought as a line of succession. It can be granted only in exceptional cases where the family is in such a



distressed condition financially that family cannot survive without immediate assistance from the department to tide over the crisis caused by the sudden death of sole bread earner of the family.

4. In the instant case, O.A. is filed after 25 years from the death of applicant's father and if a person approaches the court after a period of 25 years it definitely cannot be said to be case deserving compassionate appointment. As such I do not find any merit in the case. The same is accordingly dismissed on the ground of limitation as well as on merits both.

5. There shall be no order as to costs.



Member-J

/Anand/