

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

Original Application No. 767 of 2003

Wednesday this the 28th day of May, 2008

Hon'ble Mr. K.S. Menon, Member (A)

1. Charan Pal S/o Late Gulab Singh R/o Village Dakaur, sub-Division Hodel Distt Faridabad Haryana.
2. Smt. Kanchan widow of Late Gulab Singh R/o Village Dakaur, sub-Division Hodel Distt Faridabad Haryana.

Applicants

By Advocate Sri A.D. Prakash

Versus

1. Union of India through the General Manager, North Central Railway, Hdq. Office, Allahabad.
2. Divisional Railway Manager, Jhansi, North Central Railway.

Respondents

By Advocate Sri K.P. Singh

ORDER

By K.S. Menon, Member (A)

In this O.A., the applicants No. 1 and 2 who are the Son and Widow respectively of the deceased railway employee Late Gulab Singh, are seeking directions of this Tribunal to the respondents to consider the appointment of applicant No. 1 Shri Charan Pal on compassionate grounds on a Group 'D' post in the Railways. Their case is that the respondents have not communicated any decision in their case since 20.12.1996 despite several representations and two inquiries conducted by the Welfare Inspector.

2. The brief facts of the case are that the Late Gulab Singh, father of applicant No. 1 and husband of applicant No. 2 while working as Switchman at Morena station died after an illness on 30.03.1977. He was survived by his widow two unmarried daughters and two minor sons. The eldest daughter was married in 1985 while the younger daughter and eldest son died in 1979 and 1977 respectively. Since the widow was illiterate and the applicant No. 1 was a minor when

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Late Gulab Singh expired, the applicant No. 2 states to have submitted an application for appointment of her son (applicant No. 1) on compassionate grounds on 20.10.1995 i.e. after he attained majority (Annexure A-5 to the O.A.). The respondents deputed on 10.11.1996 the Welfare Inspector who carried out the necessary verification in connection with the application for appointment on compassionate grounds. When nothing was heard from the respondents, the applicants approached the local Member of Parliament, who forwarded his case to the Railway Minister on 20.12.1996. Since no response to this representation was received the Member of Parliament forwarded the case to Divisional Railway Manager, Jhansi on 24.08.1998 (Annexure A-7 to the O.A.). The respondents deputed the Welfare Officer to conduct the verification. The Welfare Officer submitted his report on 04.07.2001. The respondents have not annexed a copy of either of the Inspection reports dated 10.11.1996 and 04.07.2001. Thereafter, the respondents directed the applicant No. 2 on 22.03.2002 to submit relevant papers, which were complied with on 26.06.2002 (Annexure A-9 to the O.A.).

3. The applicants' grievance is that despite submitting all relevant papers their case has not been disposed off and on the other hand many cases of compassionate appointments have been made since 1996. They contend that they have been pursuing the case since 1996, without any result hence they were compelled to file this O.A.

4. The respondents have contested the claim of the applicants, on the ground that the application is time barred in terms of Section 21 of the Administrative Tribunals Act. According to the respondents, the application for grant of compassionate appointment was received for the first time in the office of the respondents on 20.11.1998 through the Railway Minister's Office, i.e. more than 20 years after the death of the Railway employee and more than three years after the applicant No. 1 attained majority. Respondents also maintain that the widow Smt. Kanchan Devi had never applied for appointment on compassionate ground neither had she registered her sons name for grant of such an appointment as per rules. Besides the applicant No. 1 had not applied for compassionate appointment within 2 years of attaining majority. The applicants case was considered by the Competent Authority who found that there were no special circumstances or pressing liability warranting grant of such an

appointment, hence they rejected the case vide their letter dated 15.05.2002 addressed to CPO (HQ) CSTM (Annexure-I to the C.A.)

5. Heard, the Counsel for the applicants Sri A.D. Prakash and Sri K.P. Singh, Counsel for the respondents and perused the pleadings on record. An Order dated 17.10.2005 was passed by this Tribunal requisitioning the records in this case for perusal by this Tribunal. The records submitted by the learned counsel for the respondents have been duly scrutinized prior to preparing this Judgment.

6. Admittedly the applicant has filed his application very belatedly after more than 26 years from the date his father expired. It is seen from the records that applicant No. 1 was only 26 days old when his father expired and so he nor his mother on his behalf could have applied then. However, the applicant No. 1 attained majority in 1995 and could have applied then or within two years of attaining majority i.e. upto 1997. He however failed to do so. This is also corroborated by the papers in the original file, submitted to Court and scrutinized by me. It has to be admitted that there are conflicting statements from both parties regarding submission of application to and receipt of the same by the respondents. The applicant has relied on the Judgment of the Andhra Pradesh High Court in Writ Petition No. 2281 of 1999 Eluri Marthamma Vs. Divisional Railway Manager, S.C. Railway and ors., decided on 06.12.1999 and reported in ATJ 2000 (Vol III). The facts and circumstances of the case are different from the facts and circumstances of this O.A. hence do not strictly cover this case.

7. The applicants counsel has brought to my notice the contents of Railway Board's letter dated 06.10.1995, on the subject, the relevant extract of which is reproduced below: -

"4. Wherever in individual case of merit, it is considered that justification exists for extending consideration to cases where death took place over 20 years age of where the application for appointment is made after over two years after attaining majority or where the application has been made for other than the first son or the first daughter, the prior approval of the Ministry of Railways should be obtained by forwarding a detailed proposal with specific justification and personal recommendation of the General Manager in the prescribed proforma, circulated vide Board's letter No. E (NG) II/87/RC-1/143 dated 19-1-1988."

A simple reading of the above letter shows that powers have been delegated to General Managers to consider cases of over 20 years from date of death of an employee and over two years from date of majority of the applicant (son/daughter) of the deceased employee. The respondents have not countered these points effectively while adhering to their contention that the case has been filed belatedly. In view of the aforesaid letter, the point regarding limitation raised by the respondents lacks force. I am of the view that the very concept/rationale of granting compassionate appointment to the widow/son/daughter of a deceased employee to mitigate immediate financial hardship if any as verified by the department gets vitiated if the applicant applies after a period of over 26 years. This would only imply that the family circumstances are not indigent to warrant grant of compassionate appointment so belatedly.

8. Considering the fact that based on a reference to the Divisional Railway Manager, Jhansi's Office by the Member of Parliament, the case of the applicant was considered by the Competent Authority and the same was rejected vide Divisional Railway Manager (P), Jhansi, letter dated 15.05.2002 to Chief Personnel Officer (HQ) [Annexure-I to C.A.]. The respondents have not been able to show whether this letter was endorsed to the applicant to indicate their decision/disposal of his claim for appointment on compassionate grounds. This is what prompted the applicant to seek the reliefs in the present O.A.

9. In view of the above, the O.A. is disposed of with direction to the applicants to submit a fresh application alongwith a certified copy of this order giving full particulars accompanied by relevant documents in case the same are not available at this point in time with the respondents within a period of three weeks from the date of receipt of a certified copy of this order and the respondents are directed to consider the same on merits in accordance with rules, latest instructions of the Railway Board and latest judicial pronouncements on the subject and dispose off the same with a reasoned and speaking order within three months from the date of receipt of such an application alongwith a copy of this order from the applicants, and communicate the same to the applicants. No order as to costs.

J. Mehta
Member (A) 28.5.2008.