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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 130 of 2006

Thursday, this the 14th day of August 2008

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

1. Smt. Siya Rani aged about 56 years wife of late Shri Ganga Prasad Tundey resident of Village and Post Pindari, District Jalaun.
2. Bhikam Singh aged about 34 years son of late Shri Ganga Prasad Tundey resident of Village and Post Pindari, District Jalaun.

Applicants

By Advocate Sri R.K. Nigam

Vs.

1. General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.

Respondents

By Advocate Ms. Shikha Singh

O R D E R

By K.S. Menon, Member (A)

This O.A. has been filed against the impugned order dated 29.06.2005 followed by another order dated 03.11.2005 by which respondents have rejected the claim for compassionate appointment of applicant No. 2 vice his deceased father Shri Ganga Prasad Tundey who died in harness on 15.04.1975 while serving as Gangman under Permanent Way Inspector, Chirgaon, Central Railway (now North Central Railway). The impugned orders are annexure A-I and annexure A-II.

2. The facts of the case in brief are that Sri Ganga Prasad Tundey died in harness on 15.04.1975 and the applicant No. 1 i.e. widow of the deceased employee Smt. Siya Rani moved an application stating that her son (applicant No. 2) be given compassionate appointment in lieu of her late husband. It is noted that at the time of death of employee, family consisted of widow, two daughters and the son i.e. applicant No. 2. No application seems to have been moved in respect of two elder daughters at the time when

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the employee died. As per submissions made by the applicants two daughters were married off in the year 1988. Thereafter applicant No. 1 moved a formal application in respect of applicant No. 2 i.e. the issue-son when he attained the age of majority in March 1990. The applicant has annexed photocopy of postal receipts by which the said application was sent to the respondents, which is at annexure No. VII at page 29 and 30 of the O.A. The applicant's grievance is that no action was taken on the representation of the applicant despite the fact that the applicants have been pursuing the case vigorously with the respondents through various representations. He further states that ultimately on 29.06.2005 in response to the representation dated 18.04.2005 the applicant's claim for grant of compassionate appointment was rejected on the grounds that the application was time barred. Subsequently the same reasons had been adduced in the other impugned letter dated 03.11.2005 (annexure-II) in response to the representation dated 16.09.2005.

3. The applicants submitted that two daughters, who though were eligible for grant of compassionate appointment, were married off in the year 1988 and therefore the applicant No. 1 had moved the case for grant of compassionate appointment in respect of applicant No. 2 after he attained majority on 03.03.1990. The applicants also rely on the letter of Chairman, Railway Board dated 12.08.2005 in which instructions have been given to the Zonal Railways to consider disposal of backlog of compassionate appointment cases. It had been pointed out in the said letter that main reason for delay caused in finalizing such compassionate appointment cases is because of the delay taken by the Welfare Inspector in submitting his report. The Chairman, Railway Board had directed that the Welfare Inspector should be set a time of one month for submitting his report for expeditious disposal of compassionate appointment cases. He has also directed for a special drive to clear all such compassionate appointment cases by 15.09.2005. It was also observed by the Chairman, Railway Board that timely help in the matter of compassionate appointment needs to be given and officers are required to be more sensitive to the cause of such families. The contents of aforesaid letter shows that the Chairman, Railway Board directed the Zonal Railways to be more humane while dealing with

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cases of compassionate ground appointment and be tough against those hindering the speedy finalization of compassionate appointment cases. However, it can be said that the Chairman, Railway Board could not have issued such a direction in respect of ineligible cases and it stands to reason that such directions are meant only for eligible cases. The main ground taken by the applicants' counsel is that in the absence of such uncontrovertible evidence that having submitted representation to the authority duly supported by the original postal receipts, the respondents cannot take a stand that said representation had not been received by them and hence the issue of limitation should not be attracted. On these grounds, he has urged that the impugned orders be quashed.

4. Learned counsel for the respondents Ms Shikha Singh on the other hand points out the fact that no application was preferred in respect of two daughters who were eligible for appointment between the period 1975 and 1988 (when they were stated to have been married off). In respect of the application dated 03.03.1990 purported to have been submitted by the applicant, learned counsel categorically mentioned that this application has not been received in the Office of answering respondents, presumably due to the fact that it had been addressed to the Railway Board and to the General Manager, Central Railway, Bombay. She further submits that even if for a moment it is accepted that representations were sent but the applicants do not seem to have pursued the matter by way of reminders, inquiries further representations or taking up the matter in appropriate Court of law between the period 1990 and 2005. On the issue of Chairman, Railway Board's letter relied on by the applicants, learned counsel for the respondents ^{has} submits that the time limit of 20 years stipulated in the aforesaid letter of the Chairman, Railway Board has also lapsed since the case has been filed after a period of 30 years i.e. in 2005. The Railway Board's Circular dated 28.07.2000 delegates power to the General Manager, Zonal Railways to consider the request for compassionate appointment in cases up to 20 years old in respect of the following types of cases: -

"2. The matter has been further considered by the Board and it has been decided that the General Managers may also be authorized to consider the requests of compassionate appointments in respect of cases up to 20

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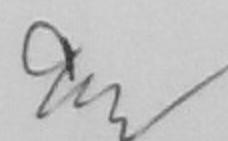
years old in the following types of cases subject to the condition that these powers will be exercised by him personally and not to be delegated further:

- (i) Compassionate appointment of 1st son/ 1st daughter where request has been made after a period of 5 years from the date of medical invalidation.
- (ii) Compassionate of other than 1st son/ 1st daughter, where requests have been made after a period of 5 years from the date of death.
- (iii) Consideration of application submitted more than 2 years after the candidate became major."

And since none of these conditions had been fulfilled and in view of considerable delay of 30 years since the death of Government employee and 15 years from the date of submission of the application, the case was rejected.

5. Heard Sri R.K. Nigam, learned counsel for the applicant and Ms. Shikha Singh, learned counsel for the respondents at length and have gone through the pleadings on record in detail.

6. In this case it is observed that the main rationale for granting compassionate appointment is to help the family to tide over the immediate financial crisis. Seeking financial help in the form of compassionate appointment after a period of 30/15 years is certainly not what was envisaged by the Government of India when the compassionate appointment scheme was introduced. The genuineness of the applicants would have been manifest if after the purported date of filing the representation i.e. 03.03.1990, the applicants would have followed it up by ~~the other~~ representations/ reminders or filing an O.A. {as has been done now} in the year 2005 itself after receipt of impugned orders dated 03.11.2005. There would have been some justification to come to a conclusion that the applicants were really in need of such assistance from the Railways. This compounded with the fact that applicant No. 2 has been managing for the last 15 years it would only go to show by a logical inference that the family is not in indigent circumstances. Learned counsel for the applicant has very strongly argued in support of the grounds mentioned in the O.A. There are however several Judgments of the Apex Court, which lays down the limit up to which the welfare of ^{an} individual can be granted/protected in comparison to other genuine employment seekers who though are



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well qualified are unable to secure employment because of employment granted which is not through a regular process of selection. Learned counsel for the applicants also relied on the Judgments in support of his arguments. In the facts and circumstances of this particular case, I am of the view that the Apex Court Judgment in respect of Uma Devi to the extent it is applicable in this case would certainly take precedence over all other judicial pronouncements in this regard.

7. I am, therefore, of the view that no valid grounds have been made out for grant of relief as prayed for in this O.A. and the O.A. being devoid of merit is accordingly dismissed. No order as to costs.

Emenot
Member (A)

/M.M/