

(RESERVED ON 04.9.2012)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 7th day of September 2012.

HON'BLE MS. JAYATI CHANDRA, MEMBER -A

ORIGINAL APPLICATION NO. 59 OF 2007

1. Mohd. Sahabuddin son of late M.D. Amiruddin.
2. Shri Mohd. Wahabuddin son of Shri Mohd. Sahabuddin.
Both are resident of House No. 218, Gaurav Nagar,
Chopan, Sonebhadra.

.....Applicants

VER S U S

1. Union of India through the General Manager, East Central Railway, Hajipur, Bihar.
2. The Divisional Railway Manager, East Central Railway, Dhanbad.
3. The Chief Personnel Officer, East Central Railway, Kolkata.
4. The Sr. Divisional Personnel Officer, East Central Railway, Dhanbad.

.....Respondents

Advocate for the applicant: Shri Satish Dwivedi

Advocate for the Respondents : Shri Anil Dwivedi

ORDER

The instant O.A. has been filed by the applicants under section 19 of Administrative Tribunals Act 1985 seeking direction to the respondents to reconsider the matter as to appointment of the applicant NO.2 on compassionate ground in terms of Railway Board Circular dated 22.9.1995 and 10.11.2000 (Annexure A-3 and A-4).

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2. In brief, the applicant NO.1 was medically decategorized from the post of Goods Driver on 24.3.1998 and he was allowed to take voluntary retirement w.e.f. 23.4.1998. Applicant No.2 submitted application dated 06.12.1999 and prayed for appointment on compassionate ground under the Provision of Circular dated 22.9.1995 and 10.11.2000 for compassionate appointment on voluntary ground. The application was rejected on 02.02.2001 without giving any reason. The applicant NO.2 represented on 10.4.2001 following it up by representations dated 6.12.1999 and 10.4.2001 and (Annexures A-9, 11) and thereafter by application dated 21.7.2006 (Annexure A-12) after reorganization of Railway Zones in 2003. Finally getting no relief, the O.A. is filed in the Tribunal on 17.1.2007. The application is accompanied by a Delay Condonation Application in which the applicant has said that he had been vigilant in following up his case with the Railway Department from 2001 to 2007 and only as a last resort he has appeared before this Court.

3. The counsel for the applicant has drawn attention to order delivered in O.A. NO. 588 of 2002 whereby the Tribunal had allowed the O.A.

4. The respondents have raised preliminary objection against the Delay Condonation Application stating therein that in terms of Section 21 of the A.T. Act, 1985, the applicant has failed to explain the reasons for the long delay. They have said that statutory period of limitation is one year and counting from the date of first

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rejection of the application i.e. 02.02.2001. Six years had passed before the applicant has filed this O.A. on 17.1.2007. They have further said that repeated representation does not extend the period of limitation. Section 21 (1) (b) of A.T. Act is quoted hereinunder:-

“21 (1) (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

5. I have examined the records and have heard the counsel counsels. The preliminary issue of delay has first to be worked into.

6. In this case, representation was rejected on 10.4.2001. Since then more than six years expired before the applicant moved the O.A. In the Delay Condonation Application filed by him, he has basically stated that he kept giving representation and awaiting the decision of the respondents.

7. Section 21 (2) (a) and 21 (3), which read as under:-

“21 (2) (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified

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in clause (a) or clause (b) of section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

8. In this case, the applicant has failed to give convincing reasons for the delay. It may also be stated that repeated representations do not keep a issue alive. Thus the case is liable to be dismissed as barred by limitation. Hence O.A. is dismissed. No costs.

J. Chandra

Member (A)

Manish/-