

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 960 of 2007

Allahabad this the 19 day of 5, 2010

Hon'ble Mr. A.K. Gaur, Member (J)

Pinku Kumari d/o Ram Kripal Singh r/o Shoni nagar Bye pass road near Gyanodya public school district Ghaziabad.

Applicant

By Advocate: Sri S.K. Dubey

Vs.

1. Union of India through its General Manager, East centre Railways, Calcutta.
2. General Manager (Railways), East Centre Railway, Kalkata.
3. D.R.M. Hawra hawarah division east center, Railways Kolkata.

Respondents

By Advocate: Sri P.N. Rai

O R D E R

The Applicant through this O.A., filed under section 19 of Administrative Tribunals' Act 1985, prayed for direction to the respondents to decide the representation dated 20.08.2007 (Annexure-1) preferred by mother of the applicant coupled with prayer for a direction to the respondents to send the applicant on duty in place of her father.

2. The case of the applicant, in brief, is that father of the applicant namely Late Ram Kripal Singh expired on 09.07.1976 while he was working as RS/SW under Station Master,

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Chandanpur. The father of the applicant expired, leaving behind three minor daughters, and his widow namely Smt. Daya Sundari Singh. It is stated that after the death of deceased employee, mother of the applicant approached the respondents with the request that service on compassionate ground should be allowed at the time of maturity of her daughter. On being major, in the year 1993, the applicant represented for compassionate appointment and thereafter she sent several reminders, the last representation is dated 20.08.2007 and as per the applicant same is pending. The applicant has taken the plea that at the time of death of her father, she was only one year old, and therefore, she was represented by her mother. It is stated that the applicant has been only looking after her mother, therefore, she is in need of compassionate appointment. Aggrieved against the inaction on the part of the respondents in not deciding the representation-dated 20.08.2007, applicant approached this Tribunal.

3. On notice, the respondents have filed counter affidavit and submitted that as per Railway Board's Circular No. E (NG) 111/78/RC 1/1 dated 07.04.1983 communicated through CPO/Kolkata's letter No. CPO/SC/SA/POL/PR.II dated 02.05.1983, the application should be made within a period of five years from the date of death of the deceased-employee, but the mother of the applicant had not submitted any application within five years from the date of death of the deceased employee. Therefore, her case is time barred now. It is further stated that the applicant is the third daughter of the deceased employee, who had married to one Hira Kumar in the year 2000, and she is living with her husband. Hence, she is not entitled for compassionate appointment as per

extant rules. The respondents have submitted that no such representation has been received in the office of the respondents. Lastly it is submitted by the respondents that the applicant has completely failed to make out any case for interference by this Tribunal and O.A. is liable to be dismissed.

4. Heard counsel for both the sides and perused the pleadings on record.

5. Learned counsel for the applicant argued that the representation of the applicant has not been decided by the respondents, which was preferred long back on 20.08.2007 however, the respondents have stated that they have not received any such representation. Learned counsel for the applicant vehemently argued that as the applicant has been looking after the widow of deceased employee, appointment should be given to her on compassionate grounds. The applicant has also filed a Delay Condonation Application No. 2039 of 2007, for condoning the delay in filing the O.A.

6. Learned counsel for the respondents argued that the applicant is not entitled for compassionate appointment as per various instructions and decisions of the Hon'ble Supreme Court. Learned counsel for the respondents submitted that as per Railway Board's Circular No. E (NG) 111/78/RC 1/1 dated 07.04.1983 communicated through CPO/Kolkata's letter No. CPO/SC/SA/POL/PR.II dated 02.05.1983, the application for compassionate appointment should be made within a period of five years from the date of death of the deceased-employee, but the

mother of the applicant had not submitted any application within five years from the date of death of the deceased employee. Therefore, her case is time barred now. It is further case of the respondents that as the applicant, who is the third daughter of the deceased employee, had married to one Hira Kumar in the year 2000, and is living with her husband, she is not entitled for compassionate appointment as per extant rules.

7. Having heard learned counsel for the parties and after perusing the records, it is clear that the representation preferred by mother of the applicant was not received in the office of the respondents and the applicant has also not produced any evidence in this regard. As per Railway Board's Circular No. E (NG) 111/78/RC 1/1 dated 07.04.1983 communicated through CPO/Kolkata's letter No. CPO/SC/SA/POL/PR.II dated 02.05.1983, the application for compassionate appointment should be made within a period of five years from the date of death of the deceased-employee, but the mother of the applicant had not submitted any application within five years from the date of death of the deceased employee. Therefore, I am firmly of the view that the present O.A. is time barred. No good ground has been raised in the Delay Condonation Application. It is also seen that the applicant, who is the third daughter of the deceased employee, had married to one Hira Kumar in the year 2000, and is living with her husband therefore, she is not entitled for compassionate appointment as per extant rules. Hon'ble Supreme Court in ***M.T Latheesh's case reported in 2006 (7) SCC 350 and State of J&K and Ors. Vs. Sajad Ahmad Mir (2006) 5 SCC 766 as well 2007 (1) SCC (L&S) 668, National Institute of Technology Vs. Manoj Kumar Singh***

has clearly held that appointment on compassionate ground cannot be granted after lapse of sufficient time.

8. In view of the aforesaid observation and law laid down by the Apex Court, the applicant has failed to make out any case for interference. Accordingly the O.A. is dismissed being devoid of merit.

9. There shall be no order as to costs.

Anil Kumar
Member (J)

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