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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 200 of 1987 **198**

~~RECORDED~~

DATE OF DECISION 18/06/1987

M R Dave

Petitioner

K N Shah

Advocate for the Petitioner(s)

Versus

Union of India & Ors

Respondent

B R Kyada

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P SRINIVASAN : ADMINISTRATIVE MEMBER

The Hon'ble Mr. P M JOSHI : JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? NO
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. Whether it needs to be circulated to other Benches of the Tribunal. NO

JUDGMENT

(b)

O.A./200/87

Date : 18/6/1987

Per : Hon'ble Mr P Srinivasan .. Administrative Member

(Dictated in Open Court)

This application came up for admission before us today. Mr. K.N. Shah learned counsel for the applicant present. Mr B.R. Kyada, learned counsel for the respondent also present. The grievance of the applicant in this application is that he has not been employed by the respondent namely the Western Railway on compassionate ground even though his father who died in 1953 had earlier worked with the Railways. The applicant wants us to quash letter dated 15.6.1979 (Annexure 'A' to the application) addressed to the applicant by the Deputy Chief Accounts Officer (TA) Ajmer wherein it was stated that it was not possible to offer him appointment as his father died more than five years ago.

Mr. K.N. Shah, learned counsel on behalf of the applicant contended that the respondents were not justified in refusing to give appointment to the applicant by the said letter dated 15.6.1979. Railway Board's Circular dated 9/7/1979 had directed that all applications for compassionate appointment pending on 30.4.1979 should be considered without applying any bar of time. In fact, Shri Shah pointed out that the Dy. CAO (TA) Ajmer had forwarded the application on the same subject dated 2.7.1979 made by the applicant to the Chief Personnel Officer of the Railway. The said forwarding letter of the Dy. CAO dated 2.7.1979 appears as Annexure 'C' to the application. The applicant had not heard anything on it so far. Mr Shah therefore contended that the issue was very much alive because the applicant has not given any reply to the representation so far.

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Mr. B.R. Kyada, learned counsel for the respondent pleaded that this application should be dismissed at the admission stage itself because it is barred by limitation under section 21 of the Administrative Tribunals Act, 1985. He drew our attention to the letter dated 15.10.1977 issued by the Railway Administration to the applicant wherein it was stated that the applicant was already 24 years and his father had died long ago and therefore no appointment on compassionate ground should be given to the applicant. The applicant has also made reference to this letter in Annexure 'B' to his application. The applicant's request for compassionate appointment had been rejected in clear terms by the Railway Administration by letter dated 15.6.1979 produced at Annexure 'A' to the application. Thus, the cause of action arose in 1977 itself or at the latest on 15.6.1979 when the letter at Annexure 'A' was issued, i.e. long prior to three years prior to the constitution of this Tribunal. Several benches of this Tribunal have held ^{that} ~~but~~ no application could be made to this Tribunal in respect of a cause of action that arose more than three years prior to its constitution i.e. prior to 1.11.1982.

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We have carefully considered ~~that~~ the rival contentions of this Tribunal. The Bombay and Bangalore benches of this Tribunal as well as the Principal Bench have held that, where the cause of action arose before 1.11.1982 no application could be made to this Tribunal and this Tribunal was not competent to entertain any application in respect of such a matter ^{and} therefore, the question of this Tribunal condoning delay under section 21 of the Act in such a case does not arise. We are bound by these decisions.

We are satisfied that ⁱⁿ this case, the cause of action arose as early as on 15.6.1979, if not earlier. The reply dated 15.10.1977 set out the reason why he could not be

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given such appointment. The letter dated 15.6.1979 which appears as Annexure 'A' to the application also rejected the applicant's request categorically. Mr Shah pointed out that in terms of Board's Circular dated 9.7.1979 the application which was pending on 30.4.1979 should have been considered again by the Railway Authority. Again the cause of action could be said to arise on 9.7.1979 when the Board's Circular was issued. If the railway authorities failed to act in pursuance of that circular, the applicant should have taken action soon after either in 1979 or 1980. We are therefore fully satisfied that the cause of action in this case arose well before 1.11.1982 and that, therefore, this application is incompetent.

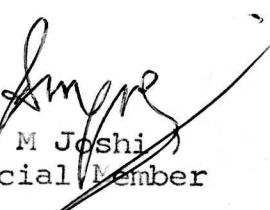
At this stage, Mr Shah requested that he be permitted to withdraw his application so that he could go before the High Court for relief. Mr. Kyada opposed this prayer. We are of the view that since we are rejecting this application as incompetent, it does not stand in the way of applicant approaching any other forum.

With these observations, the application is dismissed at the admission stage itself.

Parties to bear their own costs.



(P Srinivasan)
Administrative Member


(P M Joshi)
Judicial Member