

App'tt. on  
Compensate ground

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**O.A. No.** 69 of 1991  
**TA. No.**

**DATE OF DECISION** 16.3.1992

Shri Abdul Kalam Petitioner

Shri K.V. Shelat Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri N.S. Shevde Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. R.C. Bhatt : Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal? ✗

Shri Abdul Kalam,  
S/O late Shri Abdul Khalik Allauddin Shaikh,  
personally and as power of attorney holder  
for the heirs of deceased  
Abdul Khalik (Railway Employee),  
i.e. (1) Abdul Khayum (2) Mohammed Javed  
(3) Mohammed Aslam and guardian of  
Mohammed Arif.

: Applicant

Deceased Abdul Khalik Allauddin Sheikh  
as High skilled Fitter in Loco Workshop  
at Dahod in Erection Shop of Western  
Railway as H.S.K. Gr. I Fitter at Dahod.

(Advocate : Shri K.V. Shelat)

VS.

1. The Union of India, through  
The General Manager,  
Western Railway,  
Churchgate,  
Bombay.
2. The Deputy Chief Mechanical Engineer,  
Western Railway,  
Freelandganj,  
Dahod Workshop  
Dahod.

: Respondents

(Advocate : Shri N.S. Shevde)

### O R A L - J U D G E M E N T

O.A. No. 69 of 1991

Date : 16.3.1991

Per : Hon'ble Shri R.C. Bhatt

: Member (J)

Heard Mr. K.V. Shelat learned advocate for the  
applicant and Mr. N.S. Shevde, learned advocate for the  
respondents. This application under Section 19 of the  
Administrative Tribunals Act, 1985, is filed by one  
Shri Abdul Kalam for himself and for other heirs of the  
deceased Abdul Khalik, seeking the relief that the res-  
pondents be directed to give employment to Mohammed Javed,

*re/*

his brother, as class III employee in Railway on compassionate ground. The case of the applicant as pleaded in the application is that his father, Abdul Khalik Allauddin Shaikh, was an employee of the Western Railway and was employed as High skilled Fitter in Loco Workshop, that the applicant's father expired on 6.8.1987 in harness on account of serious ailment of throat cancer. It is alleged by the applicant that his brother Mohammed Javed is an educated person and is a commerce graduate and he should be appointed in class III post in the Railway by respondents on compassionate ground. The application is filed on behalf of all the heirs of the deceased. The applicant has averred in the application that Mohammed Javed, his brother, made application on 5.9.1987 to respondent no.1 to make his appointment on compassionate ground in which the application all the circumstances, financial and others, of the family are narrated. The Deputy Chief Mechanical Engineer decided the application of Javed Mohammed Shaikh, annexure A/3, and rejected the application vide order annexure A/10 dated 30.3.1989. The applicant has challenged this order in this application.

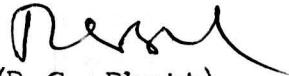
2. The respondents have filed reply contesting the application. The applicant has filed rejoinder controverting the averment made by the respondents in their reply.

3. Learned advocate for the applicant submitted that as per the circular of respondents no.1, the decision about the appointment of the dependent of the Railway Employee Class III servant dieing in harness is to be taken by the General Manager, Western Railway. While in the instant case the application, annexure A/3, has been decided by the Deputy Chief Mechanical Engineer. Learned advocate Mr. N.S. Shevde for the respondents also agrees that the order under challenge is not passed by the competent authority, viz., the General Manager. In this view of the matter, it is not necessary to go into other question arising in this application, because the impugned order, annexure A/10, suffers from serious infirmity viz., <sup>in</sup>competence of the authority to pass such order. Hence the impugned deserved to be quashed and set aside. The direction shall have to be given to respondent no.1 to decide the application, annexure A/3, sympathetically and according to Railway Circular and Rules, applicable on the point of compassionate appointment. Hence following order :-

O R D E R

The impugned order, annexure A/10, is quashed and respondent no. 1 the General Manager, Western Railway, Churchgate, Bombay, is directed to dispose of the application of

Javed Mohammed Shaikh, annexure A/3,  
dated 5.9.1987 sympathetically and  
according to the Railway Circular and  
Rules on the point of compassionate  
appointment after giving opportunity  
to him of being heard and also after  
giving the opportunity to him to pro-  
duce documents in support of his case,  
if he so desires. The respondent no.1  
to dispose of the application, annexure  
A/3, within four months from the receipt  
of this judgement. No order as to costs.  
The application is disposed of.

  
(R.C. Bhatt)  
Member (J)

\*Ani.

MA/270/92

DA 69/91

Date	Office Report	ORDER
22-09-1992	6	<p>Court was adjourned as a mark of respect to late Ex-Chief Justice of India Shri M. Hidayatullah of India.</p> <p>Call on 15/10/1992.</p> <p><i>Reh</i> <i>R</i> (R.C. Bhatt) (N.V. Krishnan) Member (J) Vice Chairman</p> <p>*AS.</p>

M.A. 270/92  
in  
O.A. 69/91  
XXXXXXGXXXXXGXXXXXGXXXXX

XXXXXX

Date	Office Report	ORDER
(3) 5.1.1992		<p>Present</p> <p>Mr. N.S.Shevde for the original respondents who have filed M.A. 270/92 for extension of time. He state, that the original applicant has also <del>been</del> <sup>was</sup> filed an application for review of the original order which has passed by the Hon'ble Judicial Member sitting as a Single Member Bench. In the circumstances let this M.A. list before the Single Bench to hear the review application tomorrow.</p> <p><i>R.C.Bhatt</i> <i>Ch</i> (R.C.Bhatt) Member (J) (N.V.Krishnan) Vice Chairman</p> <p>vtc.</p>

Union of India & Ors.

... Applicants

(Original Respondents)

Vs.

Abdul Kalam  
S/o Late Shri Abdul Khalik  
Allaudin Shaikh,  
Personality & as power of  
Attorney Holder Abdul Khalik  
(Railway employee) i.e.

1. Abdul Khayum
2. Mohmed Javid
3. Mohmmmed Aslam &
4. Guardian of Mohmed Arif

... Opponents

(Original Applicants)

*order*  
O R A L J U D G M E N T

M.A. No. 270 of 1992

in

Date: 06.11.1992

O.A. No. 69 of 1991

Per : Hon'ble Mr. R.C. Bhatt, Member (J)

1. This application is filed by the Original respondents of O.A./69/1991 for extension of time to comply with the order of the Tribunal upto 2nd November, 1992. Today, 6th November, 1992, hence, no question of extension of time arises. The result is that the application having become infructuous is disposed of.

*R.C.B.*  
(R.C. Bhatt)  
Member (J)

\*K

Central Administrative Tribunal Ahmedabad Bench.

Application No. OA/69/91 of 199

Transfer Application No. \_\_\_\_\_ Old Writ Pet. No. \_\_\_\_\_

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 3/6/92

Countersigned:

Section Officer/Court Officer.

A. C. S. J. A.  
Signature of the  
Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT AHMEDABAD BENCH

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CAUSE TITLE OA/69/91. OF 198.  
NAMES OF THE  
PARTIES Shri. Abdul Malak.  
U.O.S. & A.H.S.

**PART A B & C**

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4	Rejoinder.	48-55
5	Judgment dt. 16/3/92.	

## DESCRIPTION OF DOCUMENTS