

*Appt. on
Compensate ground*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No.

69 of 1991

~~T.A. 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,

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 applicants 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.

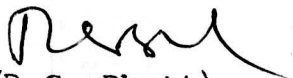
2. The respondents have filed reply contesting the application. The applicant has filed rejoinder controverting the averment made by the respondents in their reply.

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., ^{competence} ~~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

mes 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 produce 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 data-bbox="889 529 1468 568">Court was adjourned as a mark</p> <p data-bbox="862 594 1581 634">of respect to late Ex-Chief Justice</p> <p data-bbox="708 660 1484 700">of India Shri M. Hidayatullah of India.</p> <p data-bbox="889 765 1333 831">Call on 15 / 10 / 1992.</p> <div data-bbox="894 858 1122 1015"><p data-bbox="927 858 1122 936"></p><p data-bbox="894 936 1122 1015">(R.C. Bhatt) Member (J)</p></div> <div data-bbox="1300 844 1581 1015"><p data-bbox="1317 844 1390 910"></p><p data-bbox="1300 936 1581 1015">(N.V. Krishnan) Vice Chairman</p></div> <p data-bbox="894 1121 976 1147">*AS.</p>

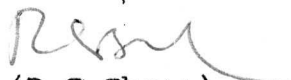

M.A. 270/92

in

O.A. 69/91

~~XXXXXXXXXXXXXXXXXXXX~~

~~/199~~

Date	Office Report	ORDER
(3) 5.11.1992		<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 been filed an application for review of the original order which has ^{was} 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> (R.C.Bhatt) Member(J)</p> <p> (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,
Personally & as power of
Attorney Holder Abdul Khalik
(Railway employee) i.e.

1. Abdul Khayum
2. Mohamed Javid
3. Mohammed Aslam &
4. Guardian of Mohamed Arif

... Opponents
(Original Applicants)

order
ORAL JUDGMENT

M.A. No. 270 of 1992
in
O.A. No. 69 of 1991

Date: 06.11.1992.

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 this *Misc.* application having become infructuous is disposed of.

R.C. Bhatt
(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. _____.

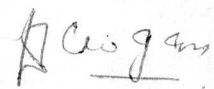
CERTIFICATE

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.


Signature of the
Dealing Assistant.

INDEX SHEET

PART A B & C

[illegible]

[illegible]