

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 266/93
T.A. No.

DATE OF DECISION 26-8-93

Shri Anil Joseph Macewan Petitioner

Shri K.K. Shah Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Anil Kothari Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B. Patel

Vice Chairman.

The Hon'ble Mr. V. Radhakrishnan

Member (A)

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 ?

No

Anil Joseph Macewan
C/o Martha J. Macewan
308/M, Kankaria Rly. Colony,
Opp. Ambica Mill, Maninagar,
Ahmedbad.

Applicant

Advocate Shri K.K. Shah

Versus

1. Union of India
Notice to be served
through, The Secretary,
Railway Board, Railbhavan
New Delhi
2. The General Manager
Western Railway, Head Quarter Office,
Churchgate, Bombay
3. The Divisional Railway Manager
Divisional Office, Pratapnagar.
Baroda.

Advocate Shri A.S. Kothari

Respondents

ORAL JUDGEMENT

In

O.A. 266 of 1993

Date: 26-8-93

Per Hon'ble Shri N.B. Patel

Vice Chairman.

Reply filed by Mr. Kothari is taken on record.

The matter is admitted and taken up for final hearing with the consent of the learned advocates.

2. The applicant, who is the son of one Joseph Macewan, has filed this application seeking ~~the~~ service in the


Western Railways on compassionate grounds. His case is that his father Joseph Macewan died in 1972 while in service. It is further his case that at the time of his ^{father's} death his age was nine years and he attained majority i.e., eighteen years of age, in 1981. According to him, he then made an application dated 13th August 1982 addressed to Divisional Superintendent Baroda seeking compassionate appointment. As nothing came out of the application he made several applications thereafter, the last being the one dated 23rd November 1992, addressed to the Chairman, Railway Recruitment Board, which is rejected by the order dated 6th January 1993, Annexure A, on the ground that the application was beyond the period prescribed for making application for compassionate appointment. The application in question is stated not to have been referred to the Railway Board for relaxation of time limit on this ground.


3. There was no question of the applicant making ~~any~~ the application for compassionate appointment till he attained the age of majority in 1981 and, thereafter, within ^{an} ~~the~~ comparatively short period, i.e. on 13th August 1982, he did make an application but he had addressed it to the Divisional Superintendent Baroda, who does not appear to be the authority competent to decide the cases of compassionate appointment. In the circumstances, it is not wholly correct to say that the applicant

had, for the first time, invoked the powers of the authority to give him compassionate appointment in 1992. In substance, he had tried to invoke this power well within time in 1982 but, unfortunately, he had approached a wrong authority for that purpose. In fact, the authority whom he had approached ^{ought to} ~~must~~ ^{have} ~~directed~~ the application to the competent authority, so that the application could have been decided on merit.



Even now on behalf of the applicant it is stated by Shri Shah, that if the General Manager, is required to treat the present application as the applicant's representation and is asked to take a decision in the matter within a stipulated time-limit, the applicant will be satisfied. We find that this suggestion is quite proper and reasonable in the circumstances of the case. We also find that, bearing in the mind the fact that the applicant had made an application in 1982, ~~that~~ his request deserves to be considered without entering into the technicality as to whether his application is within time or not. In any event, we feel that, even if there is any question of relaxing the time-limit, this case is ^a ~~is~~ very fit one for making such relaxation by the General Manager or the Railway Board as the case may be. Accordingly, we allow the application and direct the respondent no.2, the General Manager, Western Railways, to treat the present Original Application filed by the applicant

in^{the} Tribunal, as^a representation and to consider whether this representation should not be decided on merit without entering into the question whether the applicant's application was time-barred. We, ^{but} ~~however~~, direct that, in any event, if the General Manager^a is of the opinion that the application is time-barred, he should sympathetically consider whether the case is not ^a fit one for relaxing the time-limit in favour of the applicant. If such relaxation is not within the power of the General Manager to grant, the General Manager may move the Railway Board for necessary orders in the matter. We direct the General Manager, respondent no.2, to take the decision on the representation of the applicant within a — period of 12 weeks from the date of the receipt of a copy of this order, in the light of our aforesaid observations and to communicate his decision to the applicant within one week ~~x~~ after taking the same. No order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman.

*AS.

Date	Office Report	Order
30-11-1993		<p data-bbox="943 300 1455 336"><u>M.A. 640/93 in O.A. 266/93.</u></p> <p data-bbox="765 385 1492 609">Heard Mr. K.K.Shah. M.A. allowed. Time to comply with our judgement dated 26-8-1993 in O.A. 266/93 extended till 28-2-1994. M.A. stands disposed of accordingly.</p> <div data-bbox="790 716 1128 788"> (V. Radhakrishnan) Member (A)</div> <div data-bbox="1241 716 1508 788"> (N.B. Patel) Vice Chairman.</div> <p data-bbox="768 824 840 851">*AS.</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Application No. MA/640/93 of 199

Transfer Application No. _____ Old Writ Pet. NO. _____

C E R T I F I C A T E

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

Dated : 02/12/93

Counter-signed :

Assistant
21283
Section Officer/Court Officer

Sign. of the dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Application No. DA/266/93 of 199

Transrer Application No. _____ Old writ Pet. No.

C E R T I F I C A T E

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

Dated : 01/09/93

Countersigned :

Section Officer *Malhi* Court Officer *9-10-93*

1281
Sign. of the Dealing Assistant.

INDEX SHEET

D. J. Mekoan

U. of 7. & 8. crs.

[illegible]