

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 356 OF 1993  
Tax No.

DATE OF DECISION 11-2-1994.

Shri Arvind Harji, Petitioner

Mr. M.S. Trivedi, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. R.M. Vin, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. V. Radhakrishnan, Admn. Member.

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 ?

: 2 :

Shri Arvind Harji,  
s/o Ex. Employee late Shri Harji Dungar,  
Loco Khalasi,  
Bhavnagar DLJ..

: Applicant :

Advocate : Mr. M. S. Trivedi

versus

1. Union of India (through),  
The General Manager,  
Western Railway,  
Churchgate,  
Bombay.
2. Divisional Railway Manager,  
Bhavnagar Divisional Office,  
Bhavnagar Para,  
Bhavnagar.

: Respondents :

Advocate : Mr. R. M. Vin

ORAL JUDGEMENT

IN

O.A. 356/93

Date: 11-2-1994

Per : Hon'ble Mr. V. Radhakrishnan, Member (A)

The applicant is a son of late  
Shri Harji Dungar, who was working as Khalasi in

Bhavnagar DLJ, Western Railway, and expired on 14-5-1985 in harness. At the time of death of the applicants' father, the applicant was under age. However, applicants' mother had made an application to the Authorities vide letter dated 27-3-1986 for giving appointment on compassionate ground. In reply to this application, the respondents authority replied by their letter dated 11-5-1987, Annexure A-3 stating that the son of the deceased employee did not attain 18 years of age and the mother was advised to apply after her son attained the age of 18 years. The applicant had attained the age of 18 years on 25-12-1990. Thenafter the application was sent through the Western Railway Mazdoor Sangh by the applicant, which was sent by the Sangh's letter dated 02-7-1991. This application was duly recommended by the Divisional Office to General Manager, who in turn recommended the case to the Railway Board, New Delhi on 21-4-1992. The request of the applicant was turned down by the Railway Board vide letter dated 03-8-1992 conveyed by General Manager letter dated 11-8-1992. It appears ~~that~~ from the written statement by the respondents that the application was turned down on two technical grounds that first the application ~~is~~ was time barred as according to the Railway Board letter dated 07-8-1991 that cases beyond 5 years death of an employee could be considered only in respect of first son or daughter. In

this case, the applicant being fourth son was not considered eligible and secondly that he did not apply immediately on attaining age of majority.

2. Mr. Trivedi, learned counsel for the applicant indicated that the mother of the applicant had given an application for appointment on compassionate ground to the General Manager as early as on 27.3.1986 and she was advised by General Manager vide his letter dated 11.5.1987 to give an application after her son attained majority. The applicant had attained majority on 21.12.1990 and he gave an application for appointment on compassionate ground on 20.6.1991. It would therefore be seen that the applicant had given the application after about 6 months of attaining the majority. It is not also clear how the respondents state that the application was not received by them as it is seen from the D.O. letter sent by APO(T), Bhavnagar letter dated 18.11.1991 mention is made about the application dated 30.6.1991.

3. Mr. Trivedi, learned advocate for the applicant brought to notice the recent judgment of the Gujarat High Court in SCA 2255/93, wherein the philosophy of providing employment on compassionate grounds has been spelt out viz., "is just to mitigate the hardships arisen out of the sudden demise of the only bread winner of the concerned families. This is the only object which ought to have been properly considered which entertaining such applications for appointment on compassionate grounds. It may also be stated that a person having

served in a department, if he was the only bread earner and dies while on duty, his heirs can certainly hopefully look at the concerned department for legitimate reward of being appointed on compassionate ground in token of respect, appreciation of services rendered to it. Such humanistic appointments on compassionate ground should never be taken as some mercy shown to some beggar, rather it is the duty of concerned department to see that the deceased employee who was as good as its family member, his heirs are not let down and rendered destitute in absence of the deceased viz., the only bread-winner. Thus, taking into consideration the facts and circumstances of this case, to permit the respondents to refuse a 'right to bread' to the petitioner and his family under the pretext and technicalities of some rules not complied with would be tantamount to giving undue weightage of the rules which run counter to the being humanistic spirit and policy of sustaining life of the members of the deceased employee".

4. Mr. R.M. Vin, learned counsel, on the other hand pointed out that the applicant had not applied for his compassionate appointment immediately after attaining his majority. He denied receiving the application of 30.6.1992. He also pointed out that being the fourth child of the deceased employee the applicant should have applied within 5 years of the date of death of the employee as per orders of the Railway Board. He argued that the application is time barred and therefore, should be rejected.

5. Keeping in view the basic philosophy of provision of compassionate appointment and the circumstances of this case, the Railway Board as competent authority are hereby directed to consider the case of the applicant taking into account his economic circumstances and to decide on the question of compassionate appointment of the applicant on merits and not to reject it mainly on technical grounds like time bar. The applicant is therefore, directed to make a fresh application to the Railway Board giving all the facts and figures about his economic condition within one month from today and a decision in the case shall be given by the Railway Board after examining the applicant's case sympathetically taking into account all aspects and if necessary by relaxation of rules, if they consider the applicant's case as a fit case for exercising the power of relaxation. This shall be done within a period of three months from the date of receipt of the applicant's application.

6. With the above directions, the application is disposed of. No order as to costs.



(V. Radhakrishnan)  
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
Ahmedabad Bench

Application No. 04/356/93 of 19

Transfer Application No. \_\_\_\_\_ Old W. Pett 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 : 28/02/94

Countersigned :

Ami Patel  
Section Officer/Court Officer  
07-3-94

seeccaf  
Signature of the Dealing Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT NEW DELHI  
AHMEDABAD

## INDEX SHEET

CAUSE TITLE..... 041856/93 OF 198□.

## **NAMES OF THE**

**PARTIES.....** Mr. Second Haeg;

## VERSUS

U. S. I. & O. E.

## PART A B & C