

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. NO. 398/93 with M.A. 391/93
T.A. NO.

DATE OF DECISION 10.3.1995.

Mrs. Anandba G Zala and Others **Petitioner**

Mr. B.B. Gogia **Advocate for the Petitioner (s)**

Versus

Union of India and Others **Respondent**

Mr. B.R. Kyada **Advocate for the Respondent (s)**

CORAM

The Hon'ble Mr. V. Radhakrishnan Member (A)

The Hon'ble Mr. Dr. R.K. Saxena Member (J)

JUDGMENT

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

Smt. Anandba G. Zala,
W/o. Late Shri Gulabsingh,
(Ex. Shunter, Loco Shed,
Rajkot Division, Wankaner),
Bhagvati Devi Ashram,
Sant Ashram,
Pavagadh,
Dist. Panchmahal.

(2) Janak Gulabsingh Zala,
S/o. Late Shri Gulabsingh,
Bhagvati Devi Ashram,
Sant Ashram,
Pavagadh,
Dist. Panchmahal.

...Applicants.

(Advocate : Mr. B. B. Gogia)

Versus

1. Union of India,
Owning and representing,
Western Railway,
Through :
General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
2. Divisional Railway Manager,
Western Railway,
Rajkot Division,
Kothi Compound,
Rajkot.

...Respondents.


(Advocate : Mr. B. R. Kyada)

JUDGMENT


O.A.NO. 398 OF 1993
with
M.A.NO. 391 OF 1993.

Date : 10th March,
1995.

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


Heard Mr. B. B. Gogia and Mr. B. R. Kyada learned
advocates for the applicants and the respondents
respectively.

2. The applicants are the Widow and son of Shri Gulabsingh, who was working as Shunter Loco Shed, Wankaner, under the respondent No.2. Shri Gulabsingh who expired on 24-1-1974. At the time of his death his son was of minor age viz 4½ years. The widow applied for compassionate appointment for her son in June 1995. The matter was also taken up through the Trade Union to the General Manager, Western Railway. The General Manager, informed the Trade Unions that this being more than 10 years old case could be considered (Annexure A-1). The applicants' contention is that as the son was of minor age of 4½ years at the time of his father's death no application for compassionate appointment could be made until he attained the age of 18 years. According to them the General Manager has got power of considering the cases for compassionate appointment up to 10 years from the date of his death. The Railway Board has got powers to consider cases beyond that time limit. Even according to the powers delegated to the General Manager, requests received from son or daughter of deceased employee should be considered if same is made within six months from the date of attaining majority, as per Western Railway Board's Circular dated 20-5-1985 and 3-6-1985 (Annexure A-2). It is the case of the applicants that the mother had applied for employment of her son in June 1985, i.e. much earlier than the age of 18 years which he attained on 26-7-1987. The



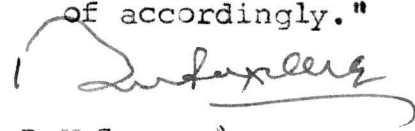
financial condition of the family is very poor and hence the request for compassionate appointment should be considered on merits.


3. The respondents have filed reply. They have produced copies of correspondence exchanged between the Western Railway Mazdoor Sangh and Western Railway Employees Union regarding this subject. According to them the General Manager, had powers to relax the time limit upto five years from the date of death of the employee as the employee died on 24-1-1974. The Widow had not applied in this case for compassionate appointment immediately after the death of her husband. In so far as the power to relax the time limit in respect of son attaining the majority is concerned they have stated that such relaxation was not laid down in the policy of the respondents which was in force in 1974 when the employee died. Accordingly they have stated that the applicants have no case and the O.A. may be rejected.

4. We have heard the learned counsels for the parties. Having regard to the facts and circumstances of the case, we are of the view that it is a fit case in which the claim of the applicant's viz, son of the deceased employee should be considered by the respondent No.1 on merits. The General Manager had not looked into the aspect of merit and rejected the application only on the grounds of limitation. The

Hon'ble Supreme Court has recently held in Civil Appeal No.4220/94 in B.K.Tarwadi Vs. Union of India that the claim for compassionate appointment should be considered on merits when the son attained majority even after 10 years of the death of his father and should not be rejected because of time bar. The present case is a fit case to be referred to the Railway Board for reconsideration. Accordingly, the application is disposed of with the following directions :

"Respondent No.1 to consider this O.A. as the application made by Shri Janak Gulabsingh Zala, son of the deceased employee Shri Gulabsingh for compassionate appointment and decide the case on merits after looking into all the relevant aspects including financial condition of the family and after relaxing of time limit as may be provided under the Rules within a period of 12 weeks from the date of receipt of this order. The application and M.A. are disposed of accordingly."


(Dr.R.K.Saxena)
Member(J)


(V.Radhakrishnan)
Member(A)

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2 Hooble Members
 2 Parties
 1 ok
 7 Reporters
 16 All Benevolers

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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH


Application No. 04/398/93 of
Transfer Application No. _____ of

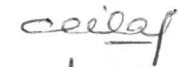
CERTIFICATE

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

Dated : 24.03.95

Countersign :


16-5-95
Section Officer.


Signature of the Dealing
Assistant

INDEX - SHEET

NAME OF THE PARTIES Mrs. Anandba. G. Zolga

U. O. 1. 8 0.22.

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