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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 323 OF 1995
Cuttack, this the 22nd day of April, 1997

Sri Sarat Kumar alias Chandra Mangaraj Applicant

-versus-

The Union of India and others Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? Yes.
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? Yes.

Sonam Singh
(S.SOM) 22.4.97
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 323 OF 1995
Cuttack, this the 22nd day of April, 1997

CORAM:

HONOURABLE SRI S. SOM, VICE-CHAIRMAN

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Sri Sarat Kumar alias Chandra Mangaraj
aged about 23 years,
son of late Baishi alias Banshidhar Mangaraj
of village Godipada,
P.O- Motta, P.S-Jankia,
District-Khurda

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Applicant

-versus-

1. The Union of India, represented through its
Secretary to Railways,
At-Rail Bhawan, Sansad marg,
New Delhi-110 001 (India).
2. The Divisional Railway Manager,
North-East Frontier Railway (Indian Railways)
Barsoi, P.O-Barsoi, Dist. Katihar.
3. The Divisional Personnel Manager, North-East Frontier
Railway, Barsoi, P.O-Barsoi, Dist.Katihar.
4. The Divisional Engineer,
North-East Frontier Railway,
Katihar,
At/P.O/Dist.Katihar

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Respondents.

*Somnath Jm
22.4.97*
Advocates for applicant - M/s R.K. Mohanty,
K.C. Prusty &
A.K. Guru.

Advocates for respondents- M/s B. Pal &
O.N. Ghosh.

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O R D E R

SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to be given to the respondents for providing compassionate appointment to him as also cost of litigation.

2. The applicant's father, Bansidhar Mangaraj was serving as Mate in North-East Frontier Railway. He passed away on 22.8.1977 leaving his widow and two sons of which the applicant is the younger son. The widow is a pensioner. After the death of her husband, the widow applied to Divisional Railway Manager, North-East Frontier Railway, Katihar, in April, 1988 for providing compassionate appointment to the first son Basanta Kumar. It is alleged that no reply was received by her. Subsequently, on 21.1.1995 the applicant represented to the respondents for giving him compassionate appointment on the ground of death of his father while in service. Not getting a favourable reply, he has come up in this application with the above prayer.

3. The respondents in their counter have pointed out that at the time of death of his father the applicant was minor, but he attained majority in the year 1990 and made application for providing him compassionate appointment only in the year 1995. It has also been averred that since the death has occurred about nineteen years ago, the claim for compassionate appointment cannot be considered as the family has managed all these years without the applicant getting any job.

*Complaint filed
22.11.97*

4. The applicant's father was a regular Railway employee who, according to the counter of the respondents, worked in the Railways from 1950. It further appears from the legal heir certificate issued by the Additional Tahsildar, Khurda that in July 1988 the applicant was 17 years of age. He thus attained majority sometime in 1989. The applicant made the representation only in January, 1995. The learned lawyer for the applicant has brought to my notice the provisions contained in the O.M. No.F.14014/23187-Estt.(D), dated 17th February, 1988, of the Department of Personnel & Training. Paragraph 7 of this Office Memorandum deals with belated requests for compassionate appointments. In this paragraph it has been laid down that while considering such belated requests it should be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family on the passing away of the Government servant in harness. The very fact that the family has been able to manage somehow all these years should normally be adequate proof to show that the family had some dependable means of subsistence. Therefore, examination of such cases calls for a great deal of circumspection. In this case, no specific averment has been made in the application as to how the family of the deceased Railway employee has managed all these years from 1988 till today and why because of indigent circumstances he has applied only in 1995. This paragraph of ^{above} the Office Memorandum does not go to help the applicant's case in any way. On the other hand, it has been held by the

Om Nath Jyoti
22.4.97

Hon'ble Supreme Court in the case of Jagdish Prasad v. State of Bihar and another, (1996) 1 SCC 301, that an application made by son of the deceased employee, who was minor at the time of death of his father and who applied long thereafter on attaining majority, cannot be entertained.

In the case of Union of India and others v. Bhagwan Singh, (1995) 6 SCC 476, the issue was appointment of the youngest son of the deceased Railway employee, who applied five years after the death of his father and beyond one year from the date of his attaining majority. In that case it was held that such prayer for compassionate appointment cannot be entertained.

In the case of Umesh Kumar Nagpal v. State of Haryana and others, (1994) 4 SCC 138, it has been held that compassionate appointment cannot be granted after the lapse of a reasonable period and that consideration for such employment is not a vested right which can be exercised at any time in future.

5. The above pronouncements of the Hon'ble Supreme Court have to be considered in the context of the fact that in this case the applicant applied for compassionate appointment seventeen years after the death of his father and six years after he attained majority. There is no reasonable explanation forthcoming as to why he did not apply earlier.

6. In consideration of the above, I hold that the applicant has not been able to make out a case for consideration of his representation for compassionate appointment. The application is, therefore, held to be without any merit and is rejected. No order as to costs.

S. Somnath Jha
(S.SOM) 22.4.97
VICE-CHAIRMAN