

O.A. NO. 206 of 1998

Order dated : 22<sup>nd</sup> July 2004 .

Srinivas Patnaik is the Applicant in this case. His father, Late B. Apparao Patnaik died prematurely on 25.12.1968, while continuing as a Khalasi in the Elect. Department of the South Eastern Railways at Kharagpur. Applicant was a minor at the time of the death of his father and he attained majority in the year 1983. The mother of the Applicant, on 03.03.1983 represented for providing a compassionate appointment which was rejected on 18.11.1983. On 24.08.1984, the mother of the Applicant had applied to the Railways (for providing an employment to the Applicant) on compassionate ground; in order to remove the distress condition of the family. The subsequent representation of the mother of the Applicant was also rejected on 27.06.1990. Though the ground of rejection dated 18.11.1983 is not clear the subsequent representation of the mother of the Applicant was rejected on the ground that the claim for compassionate appointment lapsed after five years from the date of death of her husband i.e. on 25.12.1968. In the said premises, this O.A. has been filed under section 19 of the Administrative Tribunals Act, 1985 with a prayer for issuance of a direction (to the Respondents) to provide a compassionate appointment

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to the Applicant (in order to remove the distress/indigent condition of the family) basing on the circulars of the Railway Board empowering the General Manager of the Railways to condone the delay upto 20 years.

2. Respondents have also filed their counter mainly alleging that delay defeats the cause for providing appointment on compassionate ground. ~~that~~ Since the Applicant has raised a grievance (for compassionate appointment) after ~~a lapse of 30~~ years, he is not entitled to get any relief as claimed by him in this Original Application.

3. Learned Counsel for both parties have been heard and the materials placed on record have been perused.

4. At the outset, it is worth to note that the sole and whole object of the scheme for compassionate appointment is to mitigate the hardship caused due to untimely death of the sole bread earner of the family. Hypertechnicality therefore, should not stand on the way of dispensation of justice; as it is observed by various courts that, ordinarily, a litigant does not stand to the benefit by lodging an appeal late. The higher authorities are respected not on account of its power to legalise injustice on technical grounds; but because it is capable of removing injustice and is expected to do so. During the course of argument, it

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has been brought to the notice by the learned counsel for the Applicant that the Railway Board has empowered the General Manager of the concerned Railways to condone the delay upto 20 years in the matter of providing compassionate appointment. Having gone through the circular produced by the Applicant, it is seen that the Railway Board/Ministry of Railways has conferred the powers consciously on the General Manager of the Railways, to condone the delay upto 20 years (in the matter of <sup>granting</sup> compassionate appointment) only to see that deserving cases should not be thrown to the wind merely on the ground of delay and, that being so, the Respondents should not have rejected the case of the Applicant on the ground of delay, without considering the indigent/distress condition of the family; which is also the paramount condition of the scheme. However, since there is no adequate explanation available on record for such long delay, (even for approaching to this Tribunal, after passing of the order of rejection) it is not desirable to interfere with the same; but, at the same time, in order to dispense justice, the General Manager of South Eastern Railways at Garden Reach (Respondent No.1) is hereby impressed upon to reconsider the grievance of the Applicant (as made under Annexure-4 dated 22-1-1998; through his Advocate) for providing him an employment on compassionate ground (by making an enquiry about the indigent condition of the family) and if the General Manager of the Railways concerned is of the opinion that the indigent condition of the family

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still persists, then he should do the needful (by utilising his power of relaxation) in the matter, for the ends of justice.

5. With the above observations and directions, this O.A. is disposed of. No costs.

*Manoranjan Mohanty*  
22/07/84  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

Free copies of final  
order dt. 22.7.84  
issued to counsel  
for both sides.

*Manoranjan Mohanty*  
Sd/-

10/8/84