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O.A.NO.324/1998

Order dated 24.12.2003.

Heard learned counsel for both sides and perused the materials placed on record. On perusal of the materials it is seen that the father of the Applicant succumbed to death on 17.10.1973 while working under the Respondents as Gangman, leaving behind his widow, one son (the Applicant) and two daughters. It is also not in dispute that at the time of the death of the father of the Applicant, the applicant was aged three years & six months. After attaining, the applicant had represented to the Respondents for providing appointment on compassionate ground in order to remove the distress condition of the family and as there was no response, he approached this Tribunal in O.A. No. 936 of 1996.

2. This Tribunal, on 26.2.1997 did not like to admit the said Original Application and while disposing of the same, directed the Respondents to dispose of the representation of the Applicant and intimate the result thereof within a reasonable time.

3. Respondents have filed their counter stating therein that the case of the applicant was considered by the competent authority, pursuant to the direction of this tribunal rendered in OA No. 936/1996 dt. 26.2.1997; but as the applicant had applied much after the time limit seeking compassionate appointment, the same was rejected. Further it was noted that the representation dated 23.3.1990 alleged to have been sent by the mother

of the applicant, has not been received by the Respondents. It is therefore submitted by the Respondents that since the case of applicant had already been examined and rejected by the Respondents, there remains nothing further to be done in this case. Hence, this Original Application as prayed by the Respondents, to be dismissed.

4. During the course of hearing, learned counsel for the applicant by producing the circular issued by the Ministry of Railways/Railway Board dated 15.2.2000, 17.8.2000 and 28.7.2000 has brought to the notice of the Tribunal that since General Manager of the Railways has been empowered to condone the delay upto 20 years in the matter of compassionate appointment and as the applicant's family is still in indigent condition, had the matter been placed before the General Manager, the applicant would have been appointed as in many other cases, the General Manager had considered the grievances of such persons much after the delay. On perusal of records, it is also seen that that the order of rejection dt. 26.4.99/31.5.99 has been passed by the Divisional Railway Manager instead of placing the matter before the General Manager, who has been empowered by virtue of the Railway Board's circular to condone the delay of 20 years.

5. In the aforesaid premises, without expressing any opinion on the merits of this O.A., I quash the order of rejection under Annexure-R/1 dt. 26.4.99/31.5.99 and direct the Respondent No.2 to place the matter before the concerned General Manager of the Railways for consideration of the grievance of the applicant for providing appointment on compassionate ground. The entire exercise shall be completed

Within a period of 90 days from the date of receipt of a copy of this order, Liberty is also granted to the Applicant to make a consolidated application giving all documents/documentary proof in support of the claim to the General Manager of the concerned Railways within a period of 15 days from the date of receipt of a copy of this order. In the result, this original application is disposed of. No costs.

Mohanty
24.12.2003

(Manoranjan Mohanty)
Member (Judicial)

Free copies of
final order
H. 24.12.03
issued to counsel
for both sides.

Ds
29/3/04

W 29/3/04.
S-0 (J)