

Order dated 6.7.2001

Heard Shri N.J.Singh, learned counsel for the petitioner and Shri S.Ray, learned A.S.C. for the respondents and also perused the records. Learned A.S.C. has filed M.A.619/2001. We have also heard both sides on this. Shri Ray wanted time to obtain instruction on the rejoinder filed by the petitioner. We find that rejoinder in this case has been served on Shri Ray on 9.5.2001. In view of this prayer for further time to obtain instruction on the rejoinder by Shri Ray is rejected and the O.A. is taken up for consideration.

In this O.A. the petitioner, who is widow of Laxman Parida has prayed for a direction to the departmental authorities to provide compassionate appointment to her eldest son Sweta Parida. The admitted position is that applicant's husband Laxman Parida was working under the Railways as a Permanent Gangman. He rendered service in the railways in different capacities from 1963 till 13.8.1971, when he died in harness. Applicant has stated that her husband left behind herself, one daughter and two sons. As the applicant was physically handicapped and the children were minor, she was not in a position to apply for compassionate appointment. After her first son became major, she applied for compassionate appointment in favour of her first son in 1991, but the same was rejected. In the context of the above facts the applicant has come up with the prayers referred to above.

It is not necessary to refer to the averments made by the respondents in their counter, because, these will be referred to while considering the submissions made by both sides. Learned counsel for the petitioner has filed rejoinder reiterating his prayer as made in the O.A.

From the pleadings of the parties, the admitted position is that the railway employee passed away on 13.8.71 and the applicant came up with a prayer for compassionate appointment to her eldest son only in 1991, i.e. after a passage of 20 years. At the time of death of petitioner's husband, the eldest son was minor. On the basis of the documents filed by the applicant herself it appears that

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her eldest son attained majority in 1986, his date of birth being 25.5.1968, according to School Leaving Certificate. But the first prayer for compassionate appointment was made in 1991, after a passage of 5 years, after the date of attainment of majority by the eldest son of the applicant. Instructions of the Railway Board do provide if a railway servant ⁱⁿ passes-away ~~during~~ harness leaving behind minor children, then they can apply for compassionate appointment within one year after attaining majority. In this case the first prayer was made five years after the eldest son acquired majority in 1986. There is no explanation as to why there was delay of five years. In any case the fact of the matter is that the family has been able to somehow survive for a period of 20 years, when the first prayer for compassionate appointment was made and for about 30 years by now. In view of the above, this is not a fit case where compassionate appointment can be provided. The prayer in the O.A. is held to be without any merit and the same is, therefore, rejected, but without any order as to costs.

In the M.A. 619/2001 the prayer made by Shri Ray to delete the Chairman, Railway Board, as one of the Respondents. In view of our order disposing of the O.A. it is not necessary to pass any separate orders on the M.A., which is accordingly disposed of.

MEMBER (JUDICIAL)

John Mathew
VICE-CHAIRMAN
6.7.2001

Free copies of final
orders dt. 6.7.2001
issued to counsel
of both sides.

PAW
S.C.T.J.

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