

O. A. NO. 1054 of 2002.

ORDER DATED: 31-08-2005.

Dinabandhu Patra, while working as a Trolley man under Permanent Way Inspector of South Eastern Railways at Jharsuguda, died prematurely, on 22.05.1975, leaving behind his widow and three minor children. In order to overcome the indigent/distress condition of the family, an application was submitted to provide an employment assistance to one of the members of his family, on compassionate ground. As it appears from the materials placed on record, the said prayer was turned down (under Annexure-2 dated 25-05-1983) on the ground that such claim was a time barred. Applicant Bhaskar Chandra Patra, the son of the said deceased Railway Servant, having failed to redress his grievances (by making successive representations) has approached this Tribunal in the present Original Application (filed under Section 19 of the Administrative Tribunals Act, 1985) with prayer to direct the Respondents/Railways to provide him employment Assistance, on compassionate ground, commensurate with his educational qualification.

2. The grounds taken by the Respondents in their counter are that whereas the death of the Government servant occurred in the year 1975; the Rules for providing employment assistance on compassionate ground, in the

Railways came into force in the year 1979 i.e. much after the death of the Railway Servant and, therefore, the case of the Applicant deserved no consideration due to nonexistence of the rules at the time of death of the Railway servant. They have also denied to have received any representation from the Applicant.

3. Heard Mr. Mr. B.S.Tripathy, learned counsel appearing for the Applicant and Mr. S.R .Patnaik, learned Counsel appearing for the Respondents/Railways. Learned counsel for the Applicant submitted that though Rules for providing employment assistant in the event of death of a Railway employee was not there at the time of the death of the father of the Applicant, it was very much available when the Applicant got majority for being considered for employment assistance on compassionate ground and that although powers have been vested with the general manager to condone delay upto 20 years, at the first instance, the grievance of the family members was rejected on the ground of delay and now the Respondents have come forward with a different/new plea which is not sustainable in the eye of law. It has further been submitted by him that the whole and sole aim of the beneficial scheme of employment assistance is to redeem the family from the distress; which is being faced due to death of the immediate bread earner of the family and as the family members of the deceased Railway

employee are still in indigent/distress conditions the case of the Applicant deserves to be considered for providing employment assistance as per the Rules framed by the Railways. On the other hand, learned counsel appearing for the Respondents-Railways has submitted that Rules being prospective in nature, the same is not applicable to the case of the Applicant and, therefore, the prayer of the Applicant needs to be rejected.

4. Having considered the rival submissions of the parties, and having perused the materials placed on record, it is noticed that even though powers have been vested with the General Manager of the Railways to condone the delay upto 20 years, (R.B.E.(NG)II-84/RCI/26 of 18-04-1985) the prayer for providing employment assistance has been rejected on the ground of being time barred, without placing the matter before the General Manager/competent authority. Further it is seen that the present Applicant got majority only in the year 1986; when Rules for providing employment assistance on condonation of delay, had already come into existence in the railways. Therefore, the plea of the Respondents that at the time of death there was no Rule in this regard is of no help. Rules that were available at the time of consideration of the candidature of a person is bound to cover the field. No where it has been stated by the Respondents that the family are not in distress/indigent condition; which is the paramount

consideration for providing employment assistance to a member of the family of a deceased Govt. Servant. It is the case of the Respondents that they have not received the representations made subsequent to the order of rejection.

5. In the above view of the matter, this Original Application is hereby disposed of with grant of liberty to the Applicant to place a consolidated representation (placing all materials in support of his grievances for providing employment assistance) before the authorities within a period of 15 days hence and, the Respondents/Railways are hereby directed to deal with the grievances of the Applicant as per the Rules and by keeping in view the observations made above and redress the same within a period of 120 days of receipt of such representation. No costs.

AFR

Mohanty
31/08/05

(M.R. MOHANTY)
MEMBER (JUDICIAL)