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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. No. 260/00267/2011

this the 27th day of September, 2016

CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)

R. Srinivasa Rao aged about 38 years S/o Late Shri R. Parvatheesam permanently residing at Malgodownpara, Ward No. 10, Railway Colony, At/PO Titilagarh, Dist. Bolangir - 767 033.Applicant

By the Advocate : Shri M.K.Rath
-VERSUS-

1. Union of India represented through the General Manager, East Coast Railway, Rail Vihar At/PO Chandrasekharpur, Bhubaneswar, District Khurda.
2. The Divisional Railway Manager, East Coast Railway, Waltair Railway Division, At/PO/Dist. Visakhapatnam (AP).
3. The Senior Divisional Personnel Officer, East Coast Railway, Waltair Railway Division, At/PO/Dist. Visakhapatnam (AP).

...Respondents

By the Advocate : Shri S.K.Ojha

O R D E R

R.C.MISRA, MEMBER(A) :

The applicant by filing this O.A. has approached this Tribunal seeking the following reliefs:-

"(a) To pass appropriate orders quashing the order dtd. 30.07.2007 in Oannexure-A/9 as well as the order dtd. 28.9.1994 in Annexure-A/5.

(b) To pass appropriate orders directing the Respondents- Department to consider the case of the applicant for providing him an appointment on compassionate ground and

(c) To pass such further order / orders as are deemed just and proper in the facts and circumstances of the case and allow this O.A. with cost."

2. The brief facts of the case are that the applicant's father late Shri R. Parvatheesam expired on 25.08.1992 while working as Engineering Blacksmith Grade III under the Inspector of Works (IOW), Titiligarh. The applicant's mother submitted a representation on 11.03.1993 before the Divisional Personnel Officer, Waltair praying for employment of her son, the

applicant on compassionate ground. The applicant himself submitted a further representation on 13.06.1994 before the same authority. On considering the representations, the Divisional Personnel Officer, Waltair rejected prayer of the applicant on the ground that School Certificate produced by the applicant was found to be false. A copy of the rejection order dated 28.09.1994 has been filed at Annex.A.5 The applicant subsequently approached the competent authorities for reconsideration of his case by exempting him from the required educational qualification. His case was based upon the Circular dated 11.10.2000 issued by the Railway Board in which it was clarified that cases being processed for compassionate appointment to Group D post prior to 04.03.1999 should be exempted from the minimum educational qualification of VIII class. In the meantime, the applicant claims that he passed his class IX examination in April 2007 and his mother once again submitted a representation to the Divisional Railway Manager for reconsideration of her son's case on compassionate grounds. This representation is dated 23.07.2007 and respondent No. 3 Senior Divisional Personnel Officer, East Coast Railway, Waltair, rejected the fresh representation stating that earlier the case has been rejected in the year 1994 and it cannot be reopened after a period of 13 years. The applicant has challenged this order of the authorities dated 30.07.2007 placed at Annex.A/9 as well as the order of rejection dated 28.09.1994 placed at Annex.A/5.

3. In the counter affidavit filed by the Railway respondents it is submitted that late Shri R. Parvatheesam expired on 25.08.1992. While considering a prayer for compassionate appointment filed by the widow in support of her son's case, the



respondents made reference to the letter of the concerned Headmaster of the School from which the educational certificate was obtained. Since the Head Master wrote back that the educational certificate was false, the competent authority rejected the case of the applicant on the ground of submission of forged document. Since the prayer of the applicant was rejected prior to 04.03.1999 his case would not be covered by the Establishment Sl. No. 195 of 2000 and no exemption from educational qualification of Class VIII can be granted. When the applicant submitted representation dated 23.07.2007 after long delay, the respondents rejected the same since they found no reason to reconsider the matter after a lapse of 13 years having rejected the same already in the year 1994. With this submission, the respondents asserted that the case has no merit and should be rejected by the Tribunal.

4. Having heard learned counsels from both sides, I have perused the records and the written notes of submissions by counsels of both sides.

5. This OA was admitted on 11.05.2011 and notice was issued on the OA and MA No. 423/2011 filed for condonation of delay. On perusal of an earlier order, I find that there is an inadvertent error in the ordersheet dated 05.07.2016 mentioning that this is a D.B. matter, however, this needs to be corrected and accordingly, this may be read as a Single Bench matter. I also find that the impugned order dated 30.07.2007 has been challenged in the year 2011. Although, an application for condonation of delay has been filed by the applicant, the reasons advanced for the prayer for condonation are not satisfactory. It has been brought to my notice that the Hon'ble



Apex Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and Ors. and Ors. Vs. T.T.Murali Babu** reported in AIR 2014 SC 1141 has held that delay and laches should not be lightly brushed-aside. The observations of the Hon'ble Apex Court are quoted hereunder :

"The doctrine of delay and laches should not be lightly brushed aside. A writ Court is required to weigh the explanation offered and the acceptability of the same. The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction As a constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invited disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant-a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis."

6. Considering the facts of the present case and applying the law as decided by the Hon'ble Apex Court, there is no doubt that this OA is hit by delay and laches and no satisfactory explanation has been offered by the applicant for the unusual delay in his filing the O.A.

7. In the meantime by order dated 30.07.2007 at Annex.A/9, the Senior Divisional Personnel Officer has rejected the case on account of the fact that the case was earlier rejected in the year 1994 and cannot be reopened after 13 years. The scheme of compassionate appointment has been formulated in order to provide relief to the family of the deceased government servant by way of giving an employment to an eligible family member so that the family can tide-over ⁰with the immediate distressed condition that arises because of the untimely passing away of the bread winner of the family. Therefore, the claim of compassionate appointment cannot be made after a lapse of

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several years since granting such a prayer would militate against the very spirit of the scheme. After a lapse of several years, it will be presumed that the family has been able to survive the distressed condition and they do not require any compassionate appointment. Therefore, I do not find anything wrong in the order of the respondent-authorities impugned in this case except for the fact that this order is cryptic and ideally they should have explained in some detail the reasons for such rejection. In this regard my attention has been drawn towards the judgment of the Hon'ble Apex Court in the matter of **Local Administration Department and Anr. Vs. M.Selvanayagam @ Kumaravelu** reported in AIR 2011 SC 1880. The observations of the Hon'ble Supreme Court relevant to this case are quoted below :

"7. It has been said a number of times earlier but it needs to be recalled here that under the scheme of compassionate appointment, in case of an employee dying-in-harness one of his eligible dependents is given a job with the sole objective to provide immediate succor to the family which may suddenly find itself in dire straits as a result of the death of the bread winner. An appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependents and the financial deprivation caused to the dependents as a result of his death, simply because the claimant happened to be one of the dependents of the deceased - employee would be directly in conflict with Articles 14 and 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind."

8. In view of the discussions made above as well as the law laid down by the Hon'ble Apex Court, I find this OA to be devoid of merit and accordingly, the same is dismissed both on the point of limitation and on merits. The M.A. is thus rejected accordingly.

9. There is however no order as to costs.


[R.C.Misra]
Member (A)