

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH : JODHPUR

Date of order : 22.4.1998

O.A. No. 307/1997

with connected

M.A. No. 174/97

1. Smt. Gajara Devi wife of late Shanker Singh, aged about 58 years, resident of plot No. 75, Ramdeo Colony, Bhagat Ki Kothi, Jodhpur - Her husband was last employed on the post of Peon in Cash Office, Jodhpur, Northern Railway.
2. Anand Singh son of late Shanker Singh, aged about 25 years, resident of plot No. 75, Ramdeo Colony, Bhagat Ki Kothi, Jodhpur.

... Applicants.

v e r s u s

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Cashier/JA, Multi Storey Building, New Delhi.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicants.

Mr. S.S. Vyas, Counsel for the respondents.

CORAM :

Hon'ble Mr. Gopal Krishna, Vice Chairman.

O R D E R

(Per Hon'ble Mr. Gopal Krishna)

Applicants, Gajara Devi and Anand Singh, have filed this application under Section 19 of the Administrative Tribunals Act, 1985, assailing the impugned order dated 18.9.1995 at Annexure A/1 by which the claim of the applicant No. 2, Anand Singh, for appointment on compassionate grounds was not considered. Applicants have sought a direction to the respondents to consider the case of the applicant No. 2, namely - Anand Singh, for appointment on compassionate consideration as per rules.

2. Applicant No. 1 is the widow of late Shanker Singh, who was a permanent Railway servant in the Northern Railway and who had expired on 27.2.1983 while working on the post of Peon in the office of the Divisional Cashier at Jodhpur. The deceased was survived by his widow, 4 married daughters and 2 sons. He left behind a kachha house and no

other immovable property. On the death of the deceased, the applicant No. 1 was granted family pension. It is contended by the applicant that the family of the deceased had no other source of income except the meagre amount of family pension and it was in indigent condition, since the elder son of the deceased was employed and residing separately from the family of the deceased. Applicant No. 1 was about 52 years of age and she requested the competent authority to consider the case of the applicant No. 2 for appointment on compassionate basis. The case was sent to the C.P.O. Headquarters, but the request for appointment of the applicant No. 2 on compassionate ground was not acceded to. Applicant No.1 preferred an appeal, but the same was also rejected. Applicants then filed an O.A. No. 414/93, which was disposed of on 17.5.1994 with a direction to the respondents to reconsider the case of the applicant No.2 for appointment on compassionate basis. A contempt petition No. 17/95 was also filed, but it was dismissed by an order dated 3.12.1996. The time limit having been changed to 20 years by circular dated 6.10.1995 at Annexure A/8, it is urged on behalf of the applicant that the respondents should not have rejected the claim of the applicant No. 2 for appointment on compassionate basis merely on the ground of delay. It is also stated that the applicants' case in such a situation was not time barred. On the other hand, the respondents have contended that the present application is barred by limitation. It is stated by the respondents that the applicants' family had been paid the following settlement due apart from the provident fund and family pension as admissible under the rules.

1.	DCRG	Rs. 6113.60
2.	Leave Encashment	Rs. 2517.10
3.	GIS	<u>Rs.10101.00</u>
	Total	<u>Rs.18731.70</u>

It is also stated that the case of the applicant No. 2 for appointment on compassionate ground was examined by the competent authority and the request was not acceded to as it was not permissible within the frame work of the scheme of compassionate appointment, since the scheme of the compassionate appointment is meant to provide immediate succour to the family of the deceased employee and to enable them to tide over the financial crisis caused due to the death of the employee. The first son of the deceased employee, Laxman Singh, was already major and it has been stated in the application that he is employed. It is further contended by the respondents that the applicants' request for appointment on compassionate basis was not turned down on flimsy grounds but the same was rejected on merits and the order of the Tribunal dated

17.5.1994 in O.A. No. 414/93 was fully complied with by examining the case again.

3. Heard the learned counsel for the parties. The records of the case have been carefully perused. The learned counsel for the parties have agreed to this matter being disposed of at the stage of admission.

4. Learned counsel for the respondents has raised a preliminary objection that this application is barred by limitation. He has relied on 1997 (8) Supreme 332, P.K. Ramachandran vs. State of Kerala & Anr., wherein Hon'ble the Supreme Court observed as follows :-

"6. Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have not power to extend the period of limitation on equitable grounds."

5. Learned counsel for the applicant has moved a Miscellaneous Application No. 174/97 for condonation of delay stating therein that the impugned order is dated 18.9.1995 and as per the law of limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985, the present application ought to have been filed by 18.9.1996 and thus, there is a delay of about 11 months in filing the application. Delay has been sought to be explained by stating that the applicants were awaiting the result of the contempt petition, which was dismissed on 3.12.1996. It is also stated that the applicant No. 1 has been suffering from a peculiar disease and she was bed ridden. In the circumstances, the applicants have prayed that the delay of 11 months deserves to be condoned. Applicants have relied on a certificate dated 11.7.1997 filed alongwith the O.A. at Annexure A/10. It is not clear from this certificate as to when in point of time, the applicant No. 1 had fallen ill and as to when she had recovered from her ailment. Even if the applicant No. 1 was unwell and was not in a position to file an application in the Tribunal, the applicant No. 2, who is a major, could have filed the application within time. The explanation offered for the delay is vague. The reasons for condonation of delay, as stated in the Misc. Application, do not appear to be convincing. This application is, therefore, hit by the bar of limitation.

6. Even if the delay in filing the application were to be condoned, this application would not be maintainable on merits for the reasons that the elder son of the deceased is already employed and the applicant No. 1 has been receiving family pension. The daughters of the deceased were already got married during his life time. It cannot be said that

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the family is in fact, in indigent circumstances. The object of grant of appointment on compassionate ground is to enable the family to get over the crisis which it faces at the time of the death of the deceased employee and it cannot be claimed and offered after a lapse of considerable time when the crisis is over.

7. In the result, the Original Application and the Miscellaneous Application for condonation of delay are hereby dismissed. No order as to costs.

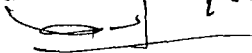
G.K. Krishna
(GOPAL KRISHNA)
Vice Chairman

CVR.

Rec'd
JMB
29/4/98

Rec'd
8
27.9.98

Part II and III destroyed
in my presence on 20-4-2004
under the supervision of
section officer () as per
order dated 22/12/2003.


Section officer (Record)