

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Date of order : 26.10.1998.

O.A.No. 14/1998

Jagdish Das S/o Shri Mool Das, Carriage Fitter, Chief Superintendent, Passenger and Goods Train, Gandhidham, by caste Vaishnav, R/o Villa Post- Dhndhala, Via Sojat Road, District Pali (Raj).

..... Applicant

Vs.

1. Union of India through the Secretary, Ministry of Railways, Department of Railway, New Delhi.
2. General Manager, Western Railways, Church Gate, Bombay.
3. Divisional Railway Manager (Estt.), Western Railway, Ajmer.

..... Respondents

For the Applicant

None present

for the Respondents

Mr. S.S.Vyas

CORAM :

HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER

ORDER

BY THE COURT :

The applicant has filed this O.A. with the prayer that the respondents be directed to give appointment to the applicant on Group D post on compassionate ground w.e.f. the date when first application in this respect, was submitted to the respondents with all consequential benefits.

2. Notice of this O.A. was issued to the respondents who have filed their reply in detail and have prayed that the O.A. deserves to be dismissed.

3. I have heard the learned counsel for the respondents. The learned counsel for the applicant was not available in spite of waiting for him for sufficiently long time.

4. From the pleadings of the parties, it appears that father of the applicant Shri Mool Das died on 14.9.1995 while he was in harness. Smt. Pani Devi widow of Mool Das was paid a sum of Rs. 1,57,987/- as retiral benefits and was also granted monthly family pension as per rules. The mother of the applicant made a representation for appointing the applicant on compassionate ground on 19.12.1995 which was rejected vide communication dated 10.7.1996 (Annex.A/5). She was informed that after considering the representation sympathetically, her son was not found entitled for appointment on compassionate ground. Smt. Pani Devi, thereafter made repeated representations to the appointing authority and the higher authorities. All such representations were considered and were rejected by the concerned authorities on the ground that no penurious circumstance exists for giving appointment to the applicant on compassionate ground. It is also borne out from the record that the applicant was born on 12.7.1968 and was of 27 years of age at the time of death of his father. The respondents have also pleaded that all the three sons of the deceased Mool Das were major and married and were not dependant on the deceased, therefore, the applicant is not entitled for compassionate appointment.

5. I have considered all these facts and come to the conclusion that applicant is not entitled to be appointed on compassionate ground. At the time of death of his father the applicant was married and was aged more than

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27 years, therefore it is difficult to believe that he was depended on his father. The mother of the applicant got pensionary benefits to the tune of Rs. 15800/- and was also sanctioned family pension as per rules which must have also been revised as per the Fifth Pay Commission Report, therefore, it cannot be said that the family was in penurious circumstances and unable to maintain itself. The Hon'ble Supreme Court has held from time to time that compassionate appointment can only be given looking to the penurious circumstances of the family. The provisions relating to compassionate appointment cannot be availed as an opportunity for getting an appointment. Grant of family pension is one circumstance which may go to show that the widow of Mool Das is quite capable to maintain herself. The pensionary benefits if ~~used~~ ^{invested} prudently could have earned her monthly interest of more than Rs. 1500/- therefore, in my opinion there existed no penurious circumstance for extending the benefit of compassionate appointment to the applicant.

6. This may be noted here that all through mother of the applicant made representations seeking appointment of her son on compassionate ground but she has not filed this O.A. The applicant of the present O.A. had never made any representation in respect of his appointment but has filed this O.A. In any case, this is also a well settled position that repeated representations would not provide fresh cause of action so as to win over the provisions relating to limitation. In this case, the first representation was rejected as far back as July, 1996 therefore, the O.A. should have been filed within one year but the same has been filed much later thereafter.

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The Original Application in my opinion is also barred by law of limitation and deserves to be rejected.

7. From the foregoing discussion, I come to the conclusion that the Application filed by the applicant seeking appointment on compassionate ground bears no merit and deserves to be dismissed. The same is therefore dismissed with no order as to cost.

From 26/10/98

(A.K.MISRA)

Judicial Member

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