

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

I/82

O.A. NO. 6/2006 & M.A. NO. 57/2007 IN OA 6/2006
DATE OF DECISION : THIS THE 30TH DAY OF MAY, 2007

CORAM :

HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER

Smt. Assu Widow of Late Shri Likhma Ram, then working as Gangman in the office of AEN, N.W. Railway, Jaisalmer, R/o Village Ramdev Mandir (Chadar), Post Setrau (Ramsar), District Barmer.

.....Applicant

By Mr. Anil Mehta, adv. brief holder for
Mr. D.C.Sharma, counsel for the applicant.

Versus

1. Union of India through the General Manager
North Western Railway, Jaipur.
2. The Divisional Railway Manager,
North Western Railway, Jodhpur.
3. Assistant Personnel Officer,
North Western Railway, Jodhpur.

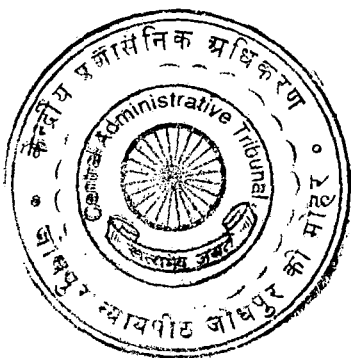
.....Respondents.

By Mr.Salil Trivedi, counsel for the respondents.

ORDER (ORAL)
BY THE COURT

Smt. Assu, W/o Late Shri Likhma Ram, Gangman, has submitted this O.A. under Section 19 of the Administrative Tribunals Act, 1985. She had sought for the following reliefs :-

- (i) Quashing the impugned order Annex.A/1 whereby she was informed that her representation for compassionate appoint - ment is not being considered as claimed belatedly.



(ii) Directing the respondents to consider grant of employment on compassionate grounds for her son.

2. The factual matrix of the case is that the husband of the applicant Late Shri Likhma Ram, was working as Gangman under the Assistant Engineer, in the erstwhile Northern Railway, Jodhpur Division and while posted at Jaisalmer, died in harness on 10.8.1983. Thereafter, the respondents offered employment to the widow of Shri Likhma Ram, vide letter dated 9.10.1987 and she was asked to submit documents for the purpose. The applicant did not avail that opportunity at that point of time. On 22.3.1999, she submitted an application (Annex. A/3), requesting the respondents to provide compassionate appointment to her elder son Shri Rao Ram, who had attained majority by then. A Welfare Inspector was deputed to inquire in the matter. He gave his report dated 28.7.2000 kept at Annex. A/6 (Page Nos. 39, 40 and 41 and of the rejoinder), mentioning that the deceased has an immovable property of a small house in Satrao village. The family composition as brought out in the report in the year 2000 was - the widow has three married daughters aged 29, 26 and 24 years of age and two sons born in 1980 and 1982. It is also contended that both the sons are not employed anywhere. Since no heed has been paid to the application at Annex. A/3, the applicant vide Annex. A/4 dated 24.6.2005 sent a Notice through her Advocate, to accede to the request of providing compassionate appointment to her elder son Rao Ram on the ground of her poor economic condition due to untimely death of the bread winner. In reply to the notice, the respondent No. 3 issued impugned order dated 1.11.2005 contending that she was informed by the administration for



[Handwritten signature]

F/12P

giving compassionate appointment to her at the appropriate time, she did not avail it at that time and now this is an old matter (about 20 years old), being beyond limitation, cannot be proceeded with.

3. The learned brief holder Mr. Anil Mehta for the applicant's counsel, prayed for adjournment which was refused on the ground that on the last date of hearing i.e. 24.5.2007, it was specifically told that "this adjournment would be a last and final adjournment". He did not want to plead. I have, therefore, carefully considered the OA along with its annexures, reply and rejoinder and the annexures(s) attached thereto.

4. The learned counsel appearing for the applicant gave a copy of judgement in Syed Khadim Hussain Vs. State of Bihar and ors. Reported in (2006) 9 SCC 195.

5. The learned counsel for respondents has reiterated what has been narrated in the reply to the O.A. and brought to our notice Annex. R./1 wherein, the Assistant Personnel Officer informed the applicant along with few others, to produce relevant documents for giving her appointment on compassionate grounds. It is specifically mentioned that if the family of the deceased was in such a penury condition than the widow could have accepted the appointment offered to her soon after the death of her husband and it is she only who is responsible for such hardship, if any, and the respondents' cannot be blamed. The word 'compassion' itself gives an understanding that it should be considered sympathetically to

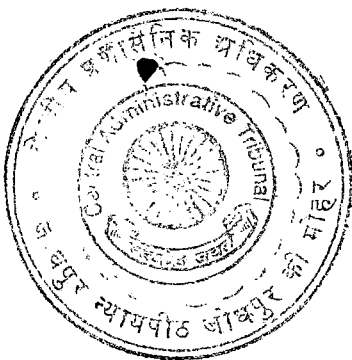


Wd

mitigate the financial hardship caused to the family on sudden death of the bread winner and by now, when more than two decades have passed, the very object of such appointment has been frustrated as is also declared by Hon'ble the Supreme Court in catena of judgements.

6. The applicant has moved an M.A. separately for condoning the delay wherein, it is averred that the O.A. is within the period of limitation as in response to her application / representation of the year 1999 and her notice dated 24.6.2005, the respondents' have replied only on 1.11.2005 and the O.A. was filed on 5.1.2006. In view of the submissions mentioned in the M.A. and by taking a liberal view as also in the interest of justice, the M.A. is accepted and delay in filing the O.A. is condoned.

7. The learned counsel for the respondents has produced a copy of the judgement delivered by Hon'ble Rajasthan High Court in DBCWP No. 1652 of 2002 on 7.8.2002 wherein, it has been held that appointment on compassionate ground makes a departure from the general provisions providing for appointment on a post by following a particular procedure. A copy of the said judgement is taken on record. Extract from this judgement relevant to this case is reproduced below :-



"4..... The consistent view of the Apex Court and this Court is that the appointment on compassionate ground is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means of livelihood.....".

Handwritten signature

J.P. Mehta

8. Applicant's daughters are already married and even the elder son of the applicant Shri Rao Ram, had attained the age of majority nine years back and is 27 years of age now. On one hand it is said that the poor widow and his two sons has been left at the mercy of the circumstances and living their lives like insect of the soil while at the same time, the widow, the applicant in this case, refused appointment on compassionate ground for herself way back in 1987. The judgement of Syed Khadim Hussain (supra), cited by Mr. Mehta, is on different footings and in no way it can be made applicable to the facts and circumstances of the instant case.



9. From the above discussions, it is quite clear that the necessity of extending compassion on the circumstances which arose more than twenty years back, is no more valid and the respondents have rightly rejected the claim vide Annex. A/1 as, such appointments cannot be claimed as a matter of right. The O.A. is, dismissed accordingly however, the parties are left to bear their own costs.

R.R. Bhandari

(R.R. Bhandari)
Admv. Member

Rel.
Rel.
12/27

12/27
12/27
12/27
12/27