

6

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Original Application No. 187/2006
Date of order: 27th November 2006

**HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER**

Ahmed Gayash S/o Sh. Mohdn. Ahmed Ex. H.S. Gr. I Machine Man, North Western Railway Workshop Lallgarh, Bikaner R/o Sadrodaya Basti, C/o Sanjai Bal Vidyalaya, Lallgarh (BKN).

...Applicant.

By: Mr. R. B. Saxena, counsel for the applicant.

VERSUS



1. Union of India through General Manager, North Western Railway, Headquarters office, Jaipur.
2. Chief Workshop Manager, North Western Railway Workshop Lallgarh (Bikaner).
3. Divisional Railway Manager, North Western Railway, Bikaner.
4. Asstt. Personnel Officer, North Western Railway Workshop Lallgarh (Bikaner).
5. Sr. Medical Superintendent, North Western Railway, Divisional Hospital, Lallgarh, Bikaner.

...Respondents.

ORDER

(By Mr. J K Kaushik, Judicial Member)

Shri Ahmed Gayash has filed this Original Application for seeking a direction to the respondents to expedite action to appoint the applicant on compassionate grounds in either category against one of the existing vacancies with all consequential benefits.

2. The case was listed for admission before this Bench today. We have heard the learned counsel for the applicant regarding the admission of this case. The brief facts of the case are that applicant is son of one

2

-2-

Shri Mohd. Ahmed Chaudhary who rendered about 38 years of service in the railways and retired on medical grounds in August 1985 while he was holding the post of highly skilled machine man grade I Tool Shop in Northern Railway Workshop, Bikaner. The pleadings contain elaborate details regarding the proceedings relating to the retirement of the applicant. Through a newspaper cutting dated 8.9.2005, a special Railway Adalat came to be organised on 15.9.2005 to dispose of outstanding cases regarding appointment on compassionate grounds and the complaints were invited by 10.9.2005. Applicant's father submitted application along with all original documents on 9.9.2005. Thereafter, the matter was reminded but of no avail. The original Application is filed on numerous grounds mentioned in para 5 and its sub paras.

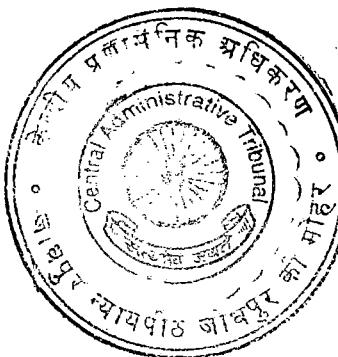


3. The learned counsel for the applicant has reiterated the facts and grounds mentioned in the Original Application as noticed above. He has submitted that the matter is pending consideration with the authorities but no decision has been taken.

4. We have considered the submissions made on behalf of the applicant. The applicant's father retired from service in August 1985 and from the records we do not find that any application or request was ever made for consideration of applicant's appointment on compassionate grounds. In Railways, the time limit for submission of application for compassionate grounds has been 1 to 2 years. We also find that the applicant was of about 17 years of age at the time of retirement of his father and therefore application could very well be made at least by 1997. By now 19 years have elapsed. As per section 21 of the Administrative Tribunals Act, 1985, a period of one year is

- 3 -

provided for filing of the Original Application. Therefore, the Original Application is highly belated and the assertion made under para relating to limitation is quite wrong. Filing of some application before a Lok Adalat will not give any cause of action after such a long period. Such remedy has not been provided under the statutes and the benefit of limitation by filing such non-statutory appeal could not be admissible. It has been fairly settled that even repeated and non-statutory representation would not extend the limitation. This proposition of the law has been settled by the Apex Court in a Constitution Bench consisting of 7 judges in the case of **S.S. Rathore vs. State of Madhya Pradesh**; [AIR 1990 SC 10].



5. Admittedly, no application for condonation of the delay has been filed on behalf of the applicant. Now, we have to see the effect of filing of the application which is not within the time prescribed in the Section 21 of Administrative Tribunals Act, 1985. The law position on this is stands concluded by the Hon'ble Supreme Court in the case of **Ramesh Chand Sharma etc. vs. Udhamp Singh Kamal and others**, 2000 (1) A.T.J. 178, wherein their Lordships were dealing with the case of promotion. In that case the Original Application was entertained on merits by the Tribunal despite the fact that there was no application for condonation of delay. Their Lordships of the Supreme Court turned down the judgement of the Tribunal holding that until and unless there is an application for condonation of delay and the delay is condoned. The Tribunal should not examine the merits of the case. Applying the statement of law laid down by the Hon'ble Supreme Court in the instant case, we are left with no option except to reject this Original Application on the ground of limitation, since the

-4-

same is barred by limitation and no application for condonation of delay has been filed and question of considering and condoning the delay for good and sufficient reasons does not arise. If that be so, we do not think there is any necessity to examine this case on merits.

6. In the result, we are of the firm opinion that the Original Application is barred by limitation as per Section 21 of Administrative Tribunals Act, 1985 and the same deserves to be dismissed on the ground of limitation alone without going on merits. Accordingly, the Original Application stands dismissed in limini.

R.R.Bhandari

(R.R.BHANDARI)
Administrative Member

J.K. Kaushik

(J.K. KAUSHIK)
Judicial Member

HC*

1

Sent to R105 6107129 J0134 dd 18-12-01
Sent to Appoint 6107129 J0134 dd 18-12-01

Cart II and III destroyed
in my presence on 31/10/14
under the supervision of
Section Officer () as per
order dated 31/10/14

Section Officer (Record)