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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 244/2008**

**Hon'ble Mr. Justice Syed Md. Mahfooz Alam, Judicial Member**

**Date of decision: 31-8-2010**

Gordan Lal, s/o late Shri Mangla, aged about 25 years, R/o Village & Post Lamba Kotra, District Nagaur (Raj) Ward of Ex-Mate Banwali, Railway Station under Senior Section Engineer, NWR, Srigananagar.

: applicant.

Rep. By Mr. S.K. Malik ; Counsel for the applicant.

**Versus**

1. The Union of India through the General Manager, NWR, Jaipur.
2. The Divisional Railway Manager, NWR, Bikaner.
3. The Divisional Personnel Officer, NWR, Bikaner.

Respondents.

Rep. By Mr. Manoj Bhandari : Counsel for the respondents.

**ORDER**

**Per Mr. Justice S.M. M. Alam, Judicial Member.**

Applicant, Gordhan Lal, S/o late Shri Mangla, deceased employee, has preferred this O.A for grant of appointment on compassionate grounds and has sought following reliefs:

- " I) By an appropriate writ order or direction the impugned order dated 13.05.2008, conveyed through letter dated 07.07.2008 at Annexure A/1 be declared illegal and be quashed and set aside.
- ii) By an order or direction the respondents may be directed to consider the case of the applicant for compassionate appointment on any group D post.
- iii) Any other relief which is found just and proper in the fact and circumstances of the case be passed in favour of the applicant in the interest of justice.

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2. The brief facts of the case are as follows:

Applicant's father late Shri Mangla was working on the post of Mate at Bhanwali Railway station, under Senior section Engineer, North Western Railway, Sri Ganganagar (Rajasthan). He died on 11.06.1985. At that time the applicant was hardly two years old. Mother of the applicant is an illiterate lady and residing in rural area. After the death of applicant's father, family pension was sanctioned in favour of the mother of the applicant vide PPO dated 31.03.1986 (annex. A/2). After attaining the age of majority by the applicant, applicant's mother vide application dated 05.08.2006 (annex. A/3) applied for compassionate appointment in favour of the applicant. As no reply was received from the respondents she again filed another application dated 18.10.2006 (Annex. A/4) enclosing all necessary documents and requested the respondents to consider the case of her son for appointment on compassionate grounds. Thereafter, vide letter dated 06.11.2006, (Annex. A/5), the respondents replied that after verifying the office record some contradictions were found in the application with regard to the date of death of her husband (applicant's father), and also with regard to the date of birth and name of the applicant and by the same letter the mother of the applicant was asked to explain the contradictions appearing in the documents. The respondents had also sought clarification as to why the application seeking compassionate appointment was not filed within two years of attaining the age of 18 years by the applicant, as he had attained the age of majority (i.e. 18 years) on 10.07.2001, as per school



*Sumit*

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certificate. The respondents vide their letter dated 05.01.2007 (Annex. A/6) again asked for certain other clarifications. Thereafter, the mother of the applicant submitted an affidavit for removal of the discrepancies mentioned in the respondents' letters. However, the respondents did not give her any reply. Thereafter the applicant filed an application under RTI Act, and then the applicant was conveyed vide letter dated 07.07.2008, that vide order dated 13.05.2008, the prayer for granting compassionate appointment to him was rejected.

3. On filing of the application, notices were issued to the respondents and the respondents in compliance of the notices made appearance through lawyer and filed reply. As per their reply, the main contention is that the application for compassionate appointment was rejected mainly on the ground that certain contradictions regarding the date of death of applicant's father and date of birth of the applicant and name of the applicant were appearing in the application as well as in the documents attached with the application seeking compassionate appointment and that the application seeking compassionate appointment was time barred and devoid of any merit.

4. Heard the learned advocate of the applicant as well as the learned advocate of the respondents. I have also perused the records carefully.

5. In this case there are <sup>some</sup> admitted facts which are as follows:

Applicant's father late Shri Mangla was in the service of the respondents working as Mate. He died while in service on 11.06.1985. It is also admitted fact that at the time of the death of Shri Mangla, the applicant was a minor and for the first time application for grant of compassionate appointment was filed by the applicant's mother on 05.08.2006, meaning thereby that the application seeking compassionate appointment was filed after more than 20 years after the death of railway servant. It is also admitted fact that the application for compassionate appointment was rejected on the ground of being time barred along with other grounds.

6. The learned advocate of the applicant during the course of the argument submitted that his application is covered under para 4 of the Railway Board's policy dated 06.10.95 ( Annex. A/14).

According to the submission of the learned advocate of the applicant para 4 of this Railway Board policy empowers the authority for considering the case of compassionate appointment even after 20 years after the death of the deceased railway servant. In support of his argument, the learned advocate of the applicant has also placed reliance upon a decision of Jaipur Bench of this Tribunal delivered in the case of **Nirmala Devi vs. Union of India and ors** [ 2002(1) ATJ 261] and the decision of the Apex



Court in the case of **Maharani Devi and Anr. Vs. Union of India and ors.** [(2009) 7 SCC 295]

7. On the other hand the argument of the learned advocate of the applicant is that the application seeking compassionate appointment was filed after the expiry of the period limitation and as such the same was rightly rejected by the competent authority.

He submitted that in cases where the application is time barred the Tribunal should not interfere with the order of the competent authority. In support of his arguments he placed reliance upon the decisions of the Hon'ble Apex court in the cases of **Sanjay Kumar and State of Bihar and others** [(2000) 7 SCC 192] and **Eastern Coal fields Ltd and Anil Badyakar and others** [(2009) 13 SCC 112]. He has also placed reliance upon the decision of the Hon'ble High Court of Rajasthan in the case of **Union of India vs. CAT and ors.** [RLW 2004 (1) Raj 576].

8. All the three judgements referred by the learned advocate of the respondents clearly lays down that compassionate appointment cannot be given after long delay after the death of deceased employee. It is admitted fact that the application for grant of compassionate appointment was filed after a lapse of more than 20 years period since the death of deceased employee and so the delay is abnormal which occurred due the fact that the applicant was minor at the time of death of deceased employee. However, Annex. 14 which is the policy of the Railway Board says that time

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limit for consideration of the application for compassionate appointment has been enhanced from 15 years to 20 years counted from the date of death of the deceased employee. So far as this case is concerned, the application seeking appointment on compassionate grounds was filed after a lapse of more than 20 years period and therefore under clause (2) of the Railway Board's policy it is definitely time barred.

9. The learned advocate of the applicant has submitted that the application seeking appointment is covered under clause (4) of the Board's policy (annex. A/14), which says that appointment on compassionate grounds can be made even after lapse of more than 20 years period. In order to appreciate the provision, I would like to incorporate clause (4) of the Railway Board's policy dated 06.10.1995 (Annex. A/14) which runs as follows:

**"copy of letter No. E(NG)II/84/RC-1/26 dated 06.10.95**

Sub: appointment on compassionate grounds -time limit for appointment.

Xxx                   xxx                   xxx                   xxx

4)Wherever in individual cases of merit, it is considered that justification exists for extending consideration to cases where death took place over 20 years ago or where the application for appointment is made after over two years after attaining majority, or where the application has been made for other than first son or the first daughter, the prior approval of the Ministry of Railways should be obtained by forwarding a detailed proposal with specific justification and personal recommendation of the General Manager in the prescribed proforma, circulated vide Board's letter No. E(NG)II/97/RC-1/143 dated 19.4.1988."

10. Thus from a perusal of clause 4 of the Railway Board's circular dated 06.10.95 (annex. A.14). I am satisfied that application for appointment on compassionate grounds can be

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considered in individual cases even after lapse of more than 20 years period. It appears from the record that the authorities have not considered the application of the applicant for compassionate appointment in the light of clause (4) of the above mentioned Railway Board's Policy issued vide letter dated 06.10.1995.

11. Under the circumstances, I am of the view that at this stage this O.A can be disposed of without going into the merit of the case by issuing a direction to the respondents to reconsider the application of the applicant for compassionate appointment in the light of para 4 of the Railway Board's policy dated 06.10.95 (Annex. A/14).

12. In the result, this O.A is disposed of with a direction to the respondents to re-consider the case of the applicant for compassionate appointment in the light of the provisions incorporated at clause 4 of Railway Board's policy dated 06.10.95 (Annex. A/14) and pass detailed and speaking order in this regard.

The respondents are further directed to complete the exercise within three months from the date of receipt of a copy of this order. However, it is observed that the respondents will be at liberty to pass any order on the applicant <sup>or</sup> of the applicant. In the circumstances of this case, there will be no order as to costs.

*S.M.M. Alam*  
**[Justice S.M.M. Alam]**  
**Judicial Member.**

Jsv.

दिनांक १७/११/११ वाराणसी  
कैरियर  
को विनाय-प्राप्ति करने के लिए  
अनुमति  
कैरियर प्राप्ति  
लाधपुर न्यायालय, वाराणसी