

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Misc. Application No.186/2011
in
Original Application No.77/2008
with
Misc. Application No.187/2011

Date of decision:03.11.2011

HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.

Ummed Singh S/o Shri Late Shri Sanwaliya, aged 40 years, by
caste Nayak, resident of Near Hanuman Temple, Post Office
Sadulpur, District Churu.

: Petitioner

Mr. Vikash Bijarnia, counsel for applicant.

Versus

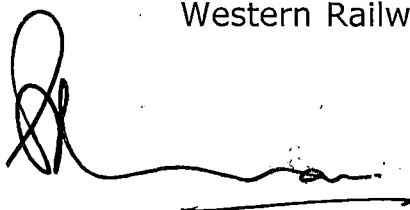
1. Union of India through General Manager, North Western
Railway, Jaipur.
2. Divisional Personnel Officer, North Western Railway, Bikaner.

: Respondents.

ORDER (ORAL)

Heard the learned counsel for the applicant, and also had the
assistance of Shri Salil Trivedi, who is panel advocate of the
Railways, although he had not yet been authorized by the
respondents, as no notice has been issued in the M.A. so far.

2. Learned counsel for the applicant has pointed out to
Annexure-A/9 which is the orders on the applicant's earlier Original
Application No.274/2007, in which on 16.10.2007 directions had
been issued to the respondent No.2 therein, the D.P.O., North
Western Railway, Bikaner, to consider the case of the applicant for

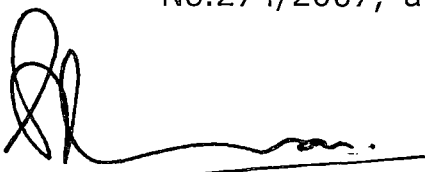


compassionate appointment, as requested by him vide his representation dated 30.05.2006. It had further been mentioned in that order that after the decision on his representation, if any grievance still survives, the applicant would be at liberty to approach this Tribunal.

3. It appears that the case of the applicant was later considered by the respondent authorities in compliance of the direction issued on 16.10.2007 in O.A. No.274/2007, and the impugned order dated 17.12.2007 (Annexure-A-1) ~~of the said O.A.~~ was passed. ru.

According to the liberty given to the applicant, he availed of that liberty, and approached this Tribunal in O.A. No.77/2008, assailing that impugned order dated 17.12.2007. That case was listed on a number of occasions, and late Shri Y.K. Sharma, Advocate, appeared for the applicant. On 26.11.2008, it was informed in the Court that the learned counsel for the applicant, Shri Y.K. Sharma, was no more, and registry was directed to issue notice to the applicant to make alternative arrangement for arguing his case.

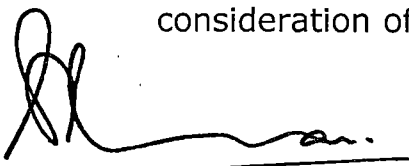
4. Thereafter, a Vakalatnama was filed on 19.01.2009 on behalf of the applicant by Advocates Shri Harish Dadhich & Shri N.S. Rathore. However, when the case came up before the Division Bench on 20.01.2009 and 28.01.2009, none appeared for the applicant. Ultimately on 12.02.2009, since neither the advocate nor the applicant himself was present in the Court, the same Bench, which had passed the order earlier on 16.10.2007 in O.A. No.274/2007, and had given the applicant a liberty to approach



this Tribunal once again, noted that it appears that the applicant is not interested in pursuing his case, and thus, the O.A. was dismissed for default.

5. Now, after a lapse of 32 months from the date of dismissal of O.A. No.77/2008 on 12.02.2009, this M.A. No.186/2011 has been filed by the applicant, praying for restoration of the O.A. No.77/2008, which was dismissed for default. It is seen that this M.A. is accompanied by a certified copy of the order dated 12.02.2009, which was issued to the applicant on 17.02.2009, and dispatched/taken delivery of through Serial No.74 dated 18.03.2009. Therefore, even if the delay is counted from 18.03.2009 to 21.10.2011, this delay cannot now be explained away by the applicant.

6. Shri Salil Trivedi, who is panel advocate of the Railways, has also assisted and pointed out that the instructions dated 28.07.2000 issued by the Railway Board that in case the widow of the deceased employee cannot apply for compassionate appointment, the Railways can keep the case for appointment on compassionate grounds open, to enable the compassionate appointment later of the elder minor son, as and when he attains majority, had been struck down by the Hon'ble High Court of Rajasthan, since it acts to deprive the benefits of the five per cent compassionate appointments from among the direct recruitment quota vacancies to the recent needy persons, and allows consideration of cases of people who are perhaps no longer in need



of any immediate succour and relief, as many years have passed in such cases after the death of the deceased.

7. The applicant is aged 40 years today and it is doubtful whether he would come within the category of candidates who can be considered for compassionate appointment as a dependent of the deceased, 38 years after the death of the deceased Railway servant.

8. Be that as it may, since the delay in filing this M.A.No.186/2011 for restoration itself has not been satisfactorily explained by the applicant, therefore, his M.A. for restoration of the O.A. No.77/2008 is dismissed as not maintainable. Accordingly, the M.A. No.187/2011 for condonation of delay is also dismissed. A plain copy of the order may be given to Shri Salil Trivedi, learned panel advocate of the Railways.



[Sudhir Kumar]
Administrative Member

copy II and III destroyed
in my presence on 8/21/15
under the supervision of
Section 2 as per
order dated 07/27/2015
Section Officer (Record)