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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR**

**Original Application Nos.140/2009**

**Date of decision: 29.07.2010**

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

Harish, S/o Shri Kishan Chand ( Ex/ Helper- Khalasi Ticket No. 9700/2003] working under the Shop Superintendent No. 3, North Western Railway, Jodhpur, presently residing at chanod Gurasan Ki Haveli, Near Gurudwara, Anand Cinema, Jodhpur.

: Applicant.

Rep. By Mr. N.K. Khandelwal &

Mrs. Vijay Laxmi,

: Counsel for the applicant.

**Versus**

1. Union of India through General Manager, North Western Railway, Headquarters office, Jaipur.
2. The Chief Works Manager, North Western Railway, Workshop, Jodhpur.
3. The Senior Personnel Officer, North Western Railway, Workshop, Jodhpur.

: Respondents.

Rep. By Mr. Manoj Bhandari :

Counsel for the respondents.



**ORDER (Oral)**

**Per Hon'ble Mr. Justice S.M.M. Alam, Judicial Member.**

This application has been filed by Shri Harish, who was working as Helper having Ticket No. 9700/2003 in the Workshop No.3 under the Shop Superintendent No.3, North Western Railway, Jodhpur. He has filed this O.A for grant of following reliefs:

" (i) That by an appropriate writ, order or direction, respondents may be directed to consider the claim of the applicant for compassionate allowance as provided in rule 65 (1) of the Railway Services ( Pension) Rules, 1993

(ii) That alternatively, by an appropriate writ, order or direction, the respondents may be directed to grant pro-rata pension to the applicant because he has served the railways for more than ten years.

(iii) That the respondents be directed to grant any other relief, which in the facts and circumstances of the case so warrants to ensure justice to the petitioner.

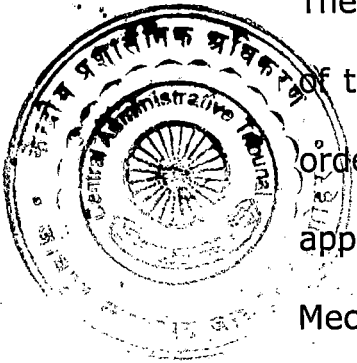
(iv) the costs of this application may be awarded to the applicant.

*Signature*

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2. The brief facts of the case<sup>2</sup> are as follows:

The applicant was appointed as Khalasi in Group D cadre on 22.08.1981. He was promoted to the post of Helper Khalasi in Workshop No. 3. It was stated that he fell sick in the year 1991 and he was under treatment under a private doctor till April 1995. He was issued SF 5 (charge sheet for major penalty) on account of his absence. It was further stated that as per Railway Servants (Discipline and Appeal) Rules, 1968, an inquiry officer was appointed and the inquiry was conducted. He was proceeded ex-parte due to his non appearance. The Disciplinary Authority i.e. The Assistant Production Engineer(Workshop) accepted the findings of the inquiry officer and removed the applicant from service vide order dated 15.03.1995 (Annex. A/1). Thereafter he preferred an appeal to the Appellate Authority, i.e. to the Deputy Chief Mechanical Engineer ( Workshop). The Appellate Authority also rejected the appeal vide order dated 13.02.1996 (Annex. A/2). It is also stated that the applicant after recovery from illness met the authorities and explained to them about his illness but the authorities paid no heed to his request. Thereafter, a notice for demand of justice was issued to the Chief Works Manager, North Western Railway, Railway Work Shop Jodhpur (Respondent no. 2) on 11.02.2009- annex. A/1 (a) to consider his case for grant of pro-rata pension of compassionate allowance if he is not found fit to be reinstated and when no order was passed on the said notice the applicant preferred this O.A.



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3. On filing of the O.A, notices were issued to the respondents and in compliance of the notice, the respondents appeared before this Tribunal through their lawyer and filed reply to the O.A. In the reply the respondents have contended that the application is hopelessly time barred since the applicant was removed from service as early as on 15.03.1995 and the present O.A. has been filed after a gap of 15 years and claiming compassionate allowance after a period of 15 years is not only astonishing rather the same is also hopelessly time barred. It has also been contended that as per rule 65 of the Railway Services (Pension) Rules 1993, the authority competent to dismiss or remove an employee from service may, if the case deserves for special consideration, sanction compassionate allowance. He also contended that the respondents were justified in passing the order of removal of the applicant due to his unauthorized absence for a period about 5 years. Therefore the respondents have prayed that this O.A is not maintainable and the O.A is liable to be dismissed with costs.

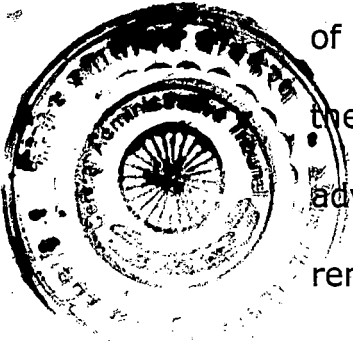


4. Heard learned advocates of both parties. Perused the application, reply as well as the documents annexed with the application and reply of the respondents.

5. During the hearing, the learned advocate of the respondents submitted that this application is hopelessly time barred as the prayer for granting him compassionate allowance has been made after a lapse of a period of 15 years after the removal of the applicant from service.

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6. Controverting the arguments of the learned advocate of the respondents, the learned advocate of the applicant submitted that he has filed this application as per Rule 65 of the Railway Services ( Pension) Rules, 1993 (Annex. R/1) for grant of compassionate allowance. He further submitted that the Railway Board issued a circular No. RBE. No. 164/2008 dated 04.11.2008, (Annex. A/3) which provides that even the past cases in which the Disciplinary Authority had not passed any specific order against the grant of compassionate allowance, such cases may be reviewed on receipt of representations from the dismissed/removed employees or from the family members of the dismissed employee. The learned advocate of the applicant submitted that as the applicant was removed from service he has every right to ask the authorities to grant him compassionate allowance as per Railway Board's circular dated 04.11.2008 (annex. A/3). The learned advocate of the applicant relied on a judgement of the Hon'ble High Court of Rajasthan in D.B. Civil W.P.No. 6662/2005 [ **Smt. Santosh Kaur vs. UOI and ors. decided on 04.08.2006**] and contended that family pension is not one time claim but is a recurring claim and therefore the present O.A is not barred by limitation.



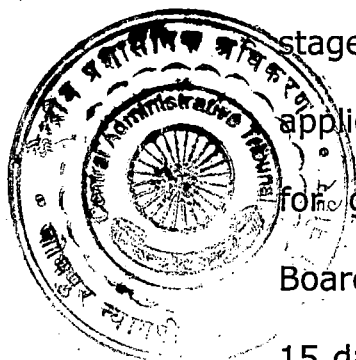
7. During the course of the argument, the learned advocate of the respondents conceded that the case of the applicant was not considered in the light of the Railway Board's circular dated 04.11.2008.

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8. Considering the arguments of both sides and in view of the Railway Board's circular dated 04.11.2008 (Annex. A/3), it is desirable that the applicant should be given an opportunity to file a representation before the respondents for grant of compassionate allowance in the light of directions contained in the Railway Board's circular dated 04.11.2008 (Annex. A/3).

9. In the circumstances, mentioned above, I feel no necessity to pass any order on merit or on the point of limitation. However, the question is left open to decide if any O.A is filed in future with regard to the question involved in the present O.A. But at this stage I am of the view that ends of justice would be met, if the applicant is directed to file a representation before the respondents for grant of compassionate allowance in the light of Railway Board's circular dated 04.11.2008 (Annex. A/3) within a period of 15 days from the date of receipt of a copy of this order and if any such representation is made by the applicant for grant of compassionate allowance in the light of the directions contained in the above mentioned Railway Board's circular dated 04.11.2008, within the above stipulated period, then the respondents are directed to pass a detailed and speaking order within a period of three months from the date of receipt of such representation. The O.A is disposed of with the above observations. No costs.



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

R/C  
Hd.  
11/08/10

दिनांक 11/11/10 के अनुसार  
मेरी उपस्थिति में दिनांक 11/11/10  
को धारा-11 के अनुसार पढ़ाया।

अध्यापक अधिकारी  
केन्द्रीय प्रशासनिक अधिकरण  
जोधपुर न्यायपीठ, जोधपुर