

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 1122 of 1997.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

Sk. Abdul Hamid
Son of - Late, Abdul Zabbor
(Ex-Khalasi, Howrah Divn., E. Rly),
of Vill & PO. Belgrum, Dist- Burdwan.

... Applicant.

Vrs.

1. Union of India,
service through the
General Manager, E. Rly,
Calcutta-1.
2. The District Controller of Stores,
E. Rly, Howrah.
3. The Chairman,
Rly. Board, Rail Bhavan,
New Delhi.

... Respondents.

For applicant : Mr. Kh. N. Nabi, Counsel.

For respondents : Mr. C.A. Sammadar, Counsel.

Heard on : 12.1.98.

Ordered on : 12.1.98.

O R D E R

B.C.Sarma, AM.

1. The dispute raised in this petition is about the grant of compassionate appointment to the applicant, who is the son of a deceased railway employee.

2. The applicant contends that his father had died in harness on 14.7.70 leaving behind his mother, himself and 5 brothers; who were all minor on that date. The applicant attained majority in 1982 and, thereafter, he had represented along with his mother to the

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railway authorities for grant of compassionate appointment to him. But his representations did not elicit any favourable response from the railway authorities. Being aggrieved thereby, the instant application has been filed with the prayer that a direction be issued on the respondents to give him compassionate appointment.

3. When admission hearing of the matter was taken up today, Mr. Samaddar raises strong objection to the maintainability of the application and also on mode of prayers made therein. According to Mr. Samaddar, the application is not maintainable in its present form because the applicant is a son of the deceased railway employee and his mother has not come to the Court along with the applicant in this case. He also submits that the applicant had attained majority in 1982 and, therefore, this is a stale matter and, as such, it is barred by limitation.

4. We have heard the submissions made by the ld. Counsel for both the parties, perused records and considered the facts and circumstances of the case. We note that the applicant had attained majority in 1982 and, thereafter, according to his contention, he had submitted representations. If the applicant was aggrieved by the inaction on the part of the railway authorities, he should have come before us in time for getting remedy, which he did not do. The delay in filing the petition only in 1997 has also not ^{been} explained by the applicant. That apart, compassionate appointment cannot be ¹ claimed by anybody as a matter of right. It is /the discretion of the authority to grant ~~any~~ such appointment to any person since such appointment is granted in relaxation of the recruitment rules. The Hon'ble Apex Court in a catena of Judgements have laid down the law that the compassionate appointment cannot be granted after a lapse of reasonable period and consideration of such appointment is not a vested right which can be exercised at any time in future. The object being to enable the

faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over. This decision of the Hon'ble Apex Court was rendered in the case of - Umesh Kr. Nagpal V. State of Haryana & Ors, reported in JT 1994(3) SC 525. The same Hon'ble Court had also said that - Railway servant dying and leaving behind his widow, two major sons and a minor one (aged 12) and application was filed by the last mentioned son beyond 5 years from the event and beyond one year from the date of attaining majority, held, patently barred. This decision was given in the case of - Union of India & Ors. Vs. Bhagwan Singh, reported in (1995) 6 SCC 476. In the case of - Jagdish Prasad Vs. State of Bihar & Anr., reported in 1996 SC (L&S) 303. the Hon'ble Apex Court had taken ^a similar view. The sum and substance of all these decisions and the law laid down by the Hon'ble Apex Court is that the compassionate appointment has to be claimed in time strictly as per rules. The very object of such appointment of a dependent of the deceased employee who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family. In this case this has not happened. The applicant, who has not joined by his mother, has come before us even ^{though} after he had attained majority in 1982. Moreover, the application is also not maintainable in the present form. Accordingly, it is liable to be dismissed.

5. For the reasons given above, we do not find any merit in the application. We hold that the application is also not maintainable in the present form and it is hopelessly barred by limitation. For all these reasons, it is summarily dismissed at the stage of admission hearing itself without passing any order as to costs.

(D. Purkayastha)
Member (J)

(B.C. Sarma)
Member (A)