

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.441/2002.

Friday this the 21st day of June 2002.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K.Muhammed Ashraf, S/o Late K.Mammoo,  
Loco Shunter, Southern Railway,  
S.R.r.Kundukattil House, Panjal Village,  
Attur (P.O.). Applicant

(By Advocate Shri Rony J. Pallath)

Vs.

1. Union of India, represented by  
Secretary to Government of India,  
Ministry of Railways, New Delhi.
2. The Chairman, Railway Board, New Delhi.
3. The General Manager, Southern Railway,  
Headquarters Office, Park Town (P.O.), Chennai-3.
4. The Divisional Railway Manager,  
Southern Railway,  
Palakkad Junction, Palakkad. Respondents

(By Advocate Shri Thomas Mathew Nellimoottil)

The application having been heard on 21st June 2002  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER


This is a case where the applicant Shri Mohammed Ashraf is aggrieved against the failure on the part of the Railways to provide him with a job on compassionate grounds on account of the death of his father Shri K.Mammoo in the year 1971. Late Mammoo had been discharged from service on account of medical invalidation on 27.10.71. In December 1971, the discharged Railway employee passed away. It would appear that the widow of the deceased Railway employee did not approach the authorities for any compassionate appointment at the relevant time. It is also apparent that she first approached the Railway authorities for compassionate appointment in favour of her son, more than 19 years after the death of the discharged Railway employee. Several, unsuccessful, representations were made as is evident

from Annexure A-1 to A-5. By Annexure A-6 communication dated 12.3.1993, the widow of late K.Mammoo had been informed that, on a careful consideration of the facts, the requests of her son, Mohammed Ashraf, for appointment on compassionate grounds, could not be acceded to, since the matter was more than twenty one years old. Thereupon, the applicant, Shri Mohammed Ashraf, made a representation, Annexure A-7 dated 24.11.01 to the Divisional Railway Manager, Southern Railway, Palakkad and a further representation, Annexure A-8 dated 10.12.01 addressed to the Chairman, Railway Board, New Delhi. This O.A. is filed since there appeared to be no response to those representations. The applicant relying on the Railway Board's Circular No.E(NG)11/87/RC-1/57 dated 21.8.1987; RBE 218/87 (Annexure A9) on the subject of compassionate appointment, prays for reconsideration of his case for appointment on compassionate grounds. The case of the applicant is that, the General Manager ought to have personally examined the matter and made a specific reference to the Railway Board for taking a decision.

2. When the matter came up for admission, Shri Thomas Mathew Nellimoottil pointed out that, this application is not maintainable on account of the fact that, it is badly hit by limitation and the applicant's mother herself has made a series of unsuccessful representations. The circular of the Railway Board A-9 relied on by the applicant also was not relevant in the context, since it was only in absolutely suitable cases that the General Manager was expected to make recommendations to the Railway Board. In other words, it was not obligatory on the part of the General Manager to have made a reference if he was not satisfied about the merits of a case. Therefore, the benefit of that Circular is not applicable to the applicant.

3. On a consideration of the facts and circumstances, I am convinced that the applicant does not have a subsisting cause of action. When the applicant's father was discharged on medical invalidation, he was barely one year old. It is true that the discharged employee passed away within a short while of his medical invalidation. The family could have approached the authorities concerned for compassionate appointment. The widow of the deceased employee took more than 19 years to make a series of unsuccessful representations. The applicant's representations also have ultimately been considered by the 4th respondent and it was after duly considering such representation that it was decided that there was no case for compassionate appointment, as the matter was twenty one years old. I see no reason to interfere with that decision and, as such, the application does not merit admission. The concept of compassionate appointment is to <sup>help</sup> tide over the immediate and emergent financial indigence of a family whose sole bread-winner has been taken away by fate. Survival is, therefore, the cardinal principle behind the formulation of the non-statutory concept of compassionate appointment. It is evident from the facts of this case that, the family has managed to survive for the last 30 years or so and that therefore, there does not exist a legally convincing case for interference. The application, being very badly hit by limitation, is therefore, liable to be rejected. I do so accordingly under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 21st June 2002.

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of representation of applicant's mother to the 4th respondent dated 29.6.90.
2. A-2: True copy of representation dated 6.10.90 of applicant's mother to the Hon'ble Railway Minister.
3. A-3: True copy of representation dated 25.2.01 of Applicant's mother to the Hon'ble Ministry for Railway.
4. A-4: True copy of representation dated 11.10.91 of Applicant's mother to the Hon'ble Ministry for Railway.
5. A-5: True copy of representation submitted by applicant's mother to the 4th respondent.
6. A-6: True copy of order dated 12.3.93 of 4th respondent.
7. A-7: True copy of representation of applicant before the 4th respondent dated 24.11.01.
8. A-8: True copy of representation of applicant to the 2nd respondent dated 10.12.01.
9. A-9: True copy of order dated 21-8-87 No.E(NG)11/87/RC-1/57 of Railway Board.

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