

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. ~~XXXXXX~~ 619/90 199

DATE OF DECISION 10-12-91

JOY DAVID Applicant (s)

Shri Ashok M Cherian Advocate for the Applicant (s)

Versus

GENERAL MANAGER, SOUTHERN Respondent (s)
RAILWAY, MADRAS and 3 others

Mr. P.A. Mohammad Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, M(A)

The Hon'ble Mr. N. Dharmadan, M(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. To be circulated to all Benches of the Tribunal? ✓

JUDGEMENT

N.V. Krishnan, M(A)

This is a case regarding compassionate appointment. The applicant claims that he is the only son of a railway employee David P John, who expired on 5th September 1974, while employed as Pharmacist at Kottayam Health Unit of the erstwhile Madurai Division of the Southern Railway, under the respondents. At the time of his father's death, the applicant was only 6 years old. His widowed mother

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was an unhealthy person. Hence, it is stated in the application, no representation was made then for compassionate appointment. When the applicant attained 18 years of age a representation for compassionate appointment (A-2 representation dated 29-9-84) was made by the mother of the applicant. A similar representation was made by the applicant on 15-10-84 (Axe A-3). The Divisional Railway Manager, informed the mother of the applicant by A-4 letter dated 28-3-87 that her request of compassionate appointment to her son has been considered by the Head Quarters but it has not been agreed to. It would appear that a further representation was made in July, 1989 seeking re-consideration of the earlier decision. That was rejected by the Annexure A-1 letter dated 19-7-89 of the second respondent. The applicant seeks reconsideration of the representation in the light of of the Railway Board's order dated 18-1-84 which permits such re-consideration.

2. It is in these circumstances, that the applicant has prayed for the following reliefs:

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*...i) call for the records leading to
Axe- A-1 and set aside the same

ii) declare that the applicant is entitled
to be appointed against a suitable vacancy
under the respondents on compassionate
grounds.

iii) Direct the 3rd respondent to refer Axe.A-5
representation to the 1st respondent- General
Manager forthwith.

iv) direct the 1st respondent to consider
Axe-A-5 representation on merits and pass
appropriate orders as per law, without delay. ³⁷ ₆

~~AXE~~ _u ~~.....~~

3. The respondents have filed a reply stating

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that there is/long delay in filing the application

for the benefit of compassionate appointment. The

deceased had two daughters, both elder to the applicant

Hence, the applicant's mother could have applied for

the appointment for ^u _{one} ~~men~~ of them much earlier. No reason

has been given for this. No doubt, under the Board's

circular/order dated 18-1-84 (R-1) matters once decided

can be reconsidered but the grounds should be given.

4. It is stressed that the applicant ^u _{is} has been

filed after the expiry ^u of 10 years. We are of the

view that this should not be a serious hurdle ^u _{be} because

the application could be made only after the applicant

_u attained majority. The respondents have produced

Ext- R.II circular whereunder the powers have been delegated to the General Manager to decide cases when the delay is upto 10 years and he is directed to exercise them personally whenever a favourable decision is being taken. It is stated therein that in a case more than 10 years old from the date of death, the Ministry's order has to be taken.

4. Obviously, in the present case much time has already elapsed. That apart, the Department has pointed out that no ^{applicat} ~~quest~~ion was made for the appointment of a daughter which could have been done much earlier.

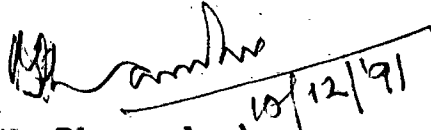
5. We have heard the parties and gone through the documents carefully. The only question to be considered is whether there exists any indigence in the family which persuades ^u us to direct the respondent ^u to re-consider the matter. We see no such circumstances. As pointed out by the respondents, claim for compassionate appointment if badly needed, was not made, in respect of the daughters, who are elder to the applicant. That apart, even now, no facts have been given to come ^{or} ~~to~~ any prima facie conclusion in this behalf. We also notice that

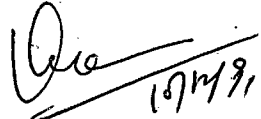
28.7.87

A-4 letter ~~28.7.87~~ which is the first reply given

to the mother of the applicant has also not been challenged.

6. ^{above} For all the reasons, we are of the view that there is no force in the application and it is liable to be dismissed. We do so. No costs.


(N. Dharmadan)
Member (Judicial)


(N.V. Krishnan)
Member (Administrative)

10th December 1991.

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