

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application . No. 87/ 2007.

This, the ^{23/2} day of December 2008

Hon'ble Dr. A. K. Mishra, Member (A)

Bhagwandin, aged about 35 years, son of Late Sheri Khemai resident of Village-Sailkha, P.O. Bada Dostpur, Distict sultanpur.

Applicant.

By Advocate Sri D.P.S. Chauhan.

Versus

1. Union of India through Ministry of Rail, Baroda House, New Delhi.
2. Maha Rail Prabandhak, North Central Railway, Allahabad.
3. Divisional Regional Manager , Northern Railway Allahabad
4. Varistha Karyadeshak (Coaching), Northern Railway, Kanpur Central.

Respondents.

By Advocate Sri B.B. Tripathi for Sri N.K. Agarwal.

Order

By Hon'ble Dr. A. K. Mishra, Member (A)

The applicant has challenged the order dated 9.7.2004 of Divisional Regional Manager rejecting the representation dated 18.8.2003 of the mother of the applicant on the ground that the claim for her son was not filed within 6 months from his attaining 18 years of age.

2. The father of the applicant, late Sri Khemai, was working on the post of fitter in the Train, Lighting Department, Northern Railway , Kanpur Central and died in harness on 18.7.1981. His son was then 10 years of age. It is the claim of the applicant that his mother filed a proper application on 9.7.1989. A copy of the application with an endorsement for DRM from somebody has been annexed at Annexure -A-1. The authenticity of this document has not been proved. It is not known who endorsed this petition to DRM and some other functionary none of whom has signed on this document; neither any diary number has been given. Photocopies of a number of such representations have been annexed to this application. It is only her representation-dated 18.3.2003 that has been acknowledged by the respondents and the impugned order has been issued considering the representation in this letter.

3. Even though her representation of March 2003 was rejected in the impugned order, she did not take any step by way of filing any application for legal redress. According to her, she went on sending representations one after the other. At last, she filed a writ petition before Hon'ble High Court of Allhabad on 5.9.2007. But subsequently, withdrew it. At last she filed this O.A. on 28. 2. 2007 after lapse of time



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1. nearly three and half years. Among the grounds challenging the impugned order, it has been mentioned that the applicant's Mother had taken requisite steps immediately after the applicant became a major and that there was no delay on their part; that the respondents themselves had sought for requisite documents from the applicant in their letter dated 10.2.1997 and that one Welfare Inspector had visited them and helped in filling up the application form; that his case had been overlooked in a arbitrary manner and that his application was not barred by limitation; that following the ratio in another O.A. No. 77/2006 where an direction was made to the respondents to reconsider the case of the applicant for compassionate appointment for the second and third time as provided in Memo of the DOP&T dated 5.5.2003 his case should also be considered two more times. He has sought for a direction to quash the order-dated 9.7.2004 and also for reconsideration of his case.

4. The respondents have denied the claim of the applicant and have urged that this application is hopelessly barred by limitation as it was filed long after the cause of action arose on rejection of the claim of the applicant by the respondents as communicated in their letter dated 9.7.2004.

5. They have stated that the first application in this regard was received in their office on 7.7.94 five years after the applicant attained the age of majority. Accordingly, an inspector was sent to her place to ascertain the correct position. They could not produce copies of any other application except one dated 27.11.1991. Even if this application is considered to be a correct one, it was sent more than two years after he became an adult, as such his, application was barred by limitation.

6. Now as regards the limitation in filing the present O.A., I find that the contention of the respondents has some merit. Admittedly, the cause of action for the applicant arose on 4.7.2004 and he has filed this application after a delay of 2 years 7 months and 24 days. The period of limitation as per Section 21-A of Administrative Tribunal Act is only one year. Neither has he filed any application for condonation of delay nor has he furnished sufficient cause to condone the delay. In Ragho Singh Vs. Mohan Singh 2000 RD (91) 689 the Hon'ble Supreme Court has held that in case no application for condonation of delay is filed along with the case, the authorities would have no jurisdiction. I find that this application suffers from delay and laches on



the part of the applicant and on that ground it is not maintainable.

7. In the result, the application is dismissed accordingly on the ground of limitation.

No costs.


(Dr. A.K. Mishra)
Member (A)

V.