

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

O.A. No. 423 of 2006 WITH MA No.2183 of 06

Date of order : 20/11/06.

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

Anuj Kumar Srivastava aged about 28 yrs, s/o Sri Kumud Bihari Srivastava, R/o 2461/4 near Baikunth Dham Mandir, Vivek Nagar, Distt.- Sultanpur (U.P.)

....Applicant

By Advocate : Shri S.K. Srivastava

Vs.

1. The Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The Chairman, Railway Board, New Delhi.
3. The General Manager, Northern Railway, Baraoda House, New Delhi.
4. Divisional Regional Manager, Northern Railway Division, Lucknow (U.P.)

....Respondents

By Advocate : Shri V.K. Srivastava

O R D E R

By Sadhna Srivastava, M (J):-

The applicant seeks direction to consider his case for appointment in the railways on the ground that his father did not participate in the general strike of the year 1974 since his father was declared as loyal worker. The



railway authorities, during the course of general strike in the year 1974, upon the undertaking given by the Union Government, gave some instructions to the different zones to dissuade the railway workers for not joining the strike and in lieu thereof to give preference in the matter of appointment of their wards. The father of the applicant, while working as Fitter and posted at Sultanpur in Northern Railway, retired in the year 1993. It is contended on behalf of the applicant that the applicant although was not born then but his elder brother, namely, Anoop Kumar Srivastava was born but was minor, aged about 4 years old. His father gave an application on 20.12.1975 and requested the authorities to give employment in future to his son on attaining majority. After attaining majority, the applicant made an application on 24.12.1997 requesting the railway authorities to appoint him on the basis of special consideration as loyal quota in the railway on the post of Khalasi. Thereafter, he filed several representation but no specific order was passed by the respondents, hence this Original Application.



2. The simple question which is to be considered in this OA is whether the benefit of appointment of the son/daughter could be claimed at such belated stage?

3. The issue of appointment in such cases was earlier raised before Patna Bench of this Tribunal in the case of Tej Narain Singh vs. U.O.I bearing OA No. 9 of 1992, which was decided on 11.8.1994, reported in 1995 (1) PLJR page 36 A.T. The said case was dismissed by Patna Bench of this Tribunal, while making reference to the aforesaid letter dated 28.1.1976, wherein a time limit upto 31.3.1976 was prescribed. The decision of railway Ministry dated 28.1.1976 ^{as in its letter dt 28.1.76} was referred to. The Railway Ministry[^] decided that the recruitment of sons/daughters of loyal staff should be continued upto 31.3.1976 to finalise the pending cases received prior to 31.12.1975. The said cut-off date was challenged in the case of Jokhan Prasad vs. U.O.I., SLJ 1996 (2) CAT page 531, and Allahabad Bench of this Tribunal has held that the cut-off date i.e. 31.12.1975 to apply was not arbitrary. When the candidate did not apply before the cut-off

date, the court's decision does not give any deeming right. It may not be out of place to refer to the order dated 10.04.01 of Hon'ble Patna High Court passed in CWJC No. 4557 of 2001, Raj Kumar vs. U.O.I., wherein the order dated 16.12.1999 of Patna Bench of this Tribunal passed in OA 713 of 1999 was impugned. In that case also, the claim as laid down in the present OA, has been turned down.

4. In another case reported in SLJ 1990 (2) (CAT) 123, H. Chiman Lal and others vs. U.O.I., Ahmadabad Bench of the Tribunal has held that the railway administration in conferring appointment or giving appointment to the person i.e., son or daughter of the railway employee in the form of recruitment is discriminatory on the ground of descent only and is violative of the fundamental rights under Article 16 (2) of the Constitution and is void. They further held that it was one time measure and not on going.

5. In the instant case, what is most important is that the applicant of the instant OA was born in 1978, and he made his claim for his appointment after attaining majority in



the year 1997. Thus, I am of the opinion that the applicant is not entitled for any relief. The concession given by the Railway Board to the loyal staff is not operative for future and applicable to even the minor child of the loyal staff. The concession provided for appointment to those children of loyal staff who were eligible at that point of time i.e whose applications were received prior to the cut-off date (31.12.1975). It cannot and did not apply to those wards or dependents who became eligible for employment after the prescribed date.

6. In my opinion, the application is misconceived and devoid of merit. It does not deserve to be admitted, dismissed at the admission stage itself. There shall, however, be no order as to the costs.


[Sadhna Srivastava] M [J]

/cbs/