

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No. 191/2011

This, the 25th day of September, 2013

Hon'ble Sri Navneet Kumar, Member (J)

1. Smt. Nand Kumari aged about adult w/o of late Shri Chhotey Lal
2. Meena Kumari aged about adult daughter of late Shri Chhotey Lal
(Both are resident of 565-K/144, Amrudahibagh, Singar Nagar, Alambagh, Lucknow)

Applicant.

By Advocate: Sri Praveen Kumar

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Works Manager, Northern Railway, Loco Workshop, Charbagh, Lucknow

Respondents.

By Advocate: Sri S.Verma

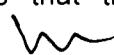
ORDER (ORAL)

By Hon'ble Sri Navneet Kumar, Member (J)

The present Original Application has been preferred by the applicant u/s 19 of the AT Act with the following reliefs:-

- i) To quash the impugned order dated 23.11.2010 contained as Annexure No. A-1 to this O.A.
- ii) To consider the case of the applicant No.2 on compassionate ground on a suitable post with all consequential benefits.
- iii) Any other relief , which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.
- iv) Cost of the present case.

2. The brief facts of the case are that the applicant No.1 is the wife of deceased employee whereas applicant No. 2 is the daughter of the deceased employee. The ex-employee while working with the respondents organization died on 2.10.1984. Soon thereafter, under the scheme for grant of compassionate appointment, the applicant moved an application for grant of compassionate appointment in 1989. The matter was kept pending and finally in 2010, the claim of the applicant was rejected whereby it was pointed out by the respondents that the case of



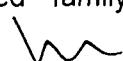
compassionate appointment of the applicant is fairly old case and the same was earlier rejected by the Head Quarter, as such it cannot be reconsidered once again.

3. The learned counsel appearing on behalf of the respondents filed their reply and through reply, it was pointed out by the respondents that the ex-employee who was working in the respondents organization died in 1984 and after a period of 5 years, i.e. in 1989, the application for compassionate appointment was moved and the matter was placed before the competent authority for consideration which was rejected in 2009. Apart from this, it is also pointed out by the respondents that the scheme of appointment on compassionate ground is not a source of recruitment but is only a measure to provide assistance/ subsistence to a bereaved family in indigent circumstances of sudden death of sole bread earner of a family. Apart from this, it is also pointed out by the learned counsel for the respondents that if a family can survive for such a long time, then there appears to be no need for considering the case for compassionate appointment.

4. Learned counsel appearing for the applicant has filed Rejoinder Reply and through Rejoinder reply, mostly the averments made in the Original Application are reiterated.

5. Heard the learned counsel for parties and perused the record.

6. Admittedly, the ex-employee who was working in the respondents organization died on 2.10.1984 and as pointed out by the respondents counsel that the case of the applicant was rejected by the competent authority in 1991 and again the matter was raised in C.G. Adalat in the year 2009 and the same was again rejected by the competent authority. It is a settled proposition that once a matter has been rejected by the competent authority, the subsequent representation in the stale matter are of no use and such representation would neither extend nor cause to extend the period of limitation prescribed in the relevant law. Apart from this, in a number of decisions rendered by the Hon'ble Apex Court it was observed that the scheme for appointment on compassionate ground cannot be treated as a source of recruitment but it is only a measure to provide assistance/ subsistence to a bereaved family in indigent



circumstances of sudden death of sole bread earner of a family. It is clear that in the present case, the Railway servant died on 2.10.1984 and his family was capable to survive for about 27 years which goes to show that besides the fact that the applicants have concealed the fact that the claim of applicant No. 2 for grant of compassionate appointment has already been rejected way back in the year 1989 and no good and sufficient ground has been shown for not approaching this Tribunal for challenging those orders. As such, the present O.A. is liable to be dismissed on the ground of limitation alone.

7. As regards the merit of the case is concerned, the compassionate appointment cannot be claimed as a matter of right. In the case of **Umesh Kumar Nagpal Vs. State of Haryana (supra)**. The Hon'ble Apex Court has been observed as under:-

"The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency."

8. In the case of **State of Chhattisgarh and Others Vs. Dhirjo Kumar Sengar reported in (2009) 13 SCC 600**, the Hon'ble Apex Court has been pleased to observe as under:-

" 10. Appointment on compassionate ground is an exception to the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. Nobody can claim appointment by way of inheritance.

9. In **SAIL Vs. Madhusudan Das** the Hon'ble Apex Court held that:

"15. This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefore viz. that the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme must be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a

dependant of a deceased employee is an exception to the said rule. It is a concession, not a right."

10. Apart from this, it is also observed by the Hon'ble Apex Court in the case of **Jagdish Prasad Vs. State of Bihar (1996) 1 SCC 301** that "Compassionate appointment claim made after a long time of the death of the employee is not liable to be considered."

11. Considering the averments made by the learned counsel for parties and also on the basis of observations made by the Hon'ble Apex Court, I do not find any merit in the present O.A. Accordingly, the O.A. is dismissed. No order as to costs.

Upendra
(Navneet Kumar)
Member (J)

HLS/-