


DA - 44/96

1./ 24.1.96.

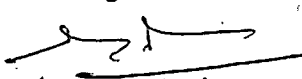
Hon'ble Mr. K.D. Saha, Member (A)

Heard learned counsel for the applicant. It appears to be barred by limitation. It is submitted that the applicant's father was appointed as Mali in the Department of Engineering and ~~was~~ expired on 16.6.88. It is submitted ~~this~~ that his mother also died on 26.5.95. The applicant is the sole survivor heir. Issue notices to the respondents to show cause why this application be not admitted for hearing. Show cause to be filed within six weeks. Rejoinder, if any, may be filed within two weeks thereafter. Requisites to be filed within one week. List this case on 6.3.96 for hearing on admission.

  
(K.D. Saha)  
Member (A)

Hon'ble Mr. K.D. Saha, Member(A)

.....  
Adjourned to 19.04.1996 for hearing.

  
(K.D. Saha)  
Member (A)

*Request as not filed  
till to date  
11/2/96*

*Notice filed  
on 8/2/96  
Jm.*

/CBS/

2/07.03.96

*Letter Received  
for Secretary  
Railway Board  
Kept in file  
MSB*

SKJ

3/19.04.96

Counsel for the applicant : Shri M.S.Haque.

Heard Shri M.S. Haque, learned counsel for the applicant. In this O.A. the agitation is by legal heir of a deceased Rly. employee for payment of his terminal benefits amounting to Rs.27,200/- . It has been said in the O.A. that the deceased Rly. employee died on 16.06.1988 while he was only 45 years of age. His widow Kalapati Devi also died on 26.05.1995. During her lifetime Kalapati Devi had been consistently writing to the respondents both through registered A.D, post and by hand, but the respondents did not care to either give a reply to the applicants' mother or making any payments. She died without getting the terminal benefits of her late husband. It has been brought out by the learned counsel as to when the widow of the deceased official had made representation and if that was so, copies of the same could have been annexed alongwith this O.A.. The age of the deceased employees' son has also not been indicated whether he was minor at the time of his father's death and also at the time of his mother's death. Had the mother been not given the benefits of terminal dues of the deceased employee, this son could have agitated this matter earlier and could have approached the Tribunal well in time to get the redressal of his grievances. He has waited all along for the death of his mother to file this O.A. The ~~mother~~ mother died on 26.05.1995 while the O.A. has been filed only on 19.10.1995 after five months of the death of the mother. This is a grossly stale case which cannot be entertained now at this stage by the Tribunal.

2. The Hon'ble Supreme Court in the case of Ratan Chandra Samanta vrs. The Union of India & Ors had very clearly laid down the position by the observation that "Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation, a person who has lost his remedy by lapse of time loses his right as well". The rightful claimant of the retirement benefits was the widow of the deceased employee who did not agitate the matter during her life time. She lost her own

...Contd/-

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right and as well of her son's

3. In view of this Supreme Court observations,  
the O. A. is not maintainable and is accordingly dismissed,

for the admission stage itself.

*N. K. Verma*  
(N. K. Verma)  
Member (A)

SKJ