

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 253 OF 2006[Patna, this Tuesday, the 25th Day of April, 2006]C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

Rama Nand Paswan, son of Late Kapil @ Kapil Paswan @ Kapildeo Paswan, resident of village – Burhara, P.S.: Athamal Gola, District – Patna.

.....APPLICANT.By Advocate :- Shri R. P. Singh.

Vs.

1. The Union of India, through the General Manager, East Central Railway, Hazipur.
2. The Chief Personnel Officer, East Central Railway, Hazipur.
3. The Divisional Railway Manager, Eastern Railway, Danapur.
4. The Senior Divisional Personnel Officer, East-Central Railway, Danapur.
5. The Deputy Divisional Railway Manager, East-Central Railway, Danapur.
6. The Assistant Engineer, East-Central Railway, Makama.
7. The Railway Way Inspector, East-Central Railway, Mokama.

.....RESPONDENTS.By Advocate :- Shri Mukund Jee, Standing Counsel.O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Heard learned counsel for the applicant as well the learned Standing Counsel for the respondents on admission of this application. In the circumstances of the case, this application is being disposed of at this stage.



2. The father of the applicant [Kapil Paswan @ Kapildeo Paswan] is claimed to have been working as Contingency Paid Casual labourer [CPC, in short] under the Railways. It is submitted that on 16.06.1988 father of the applicant had met an accidental death while working as such. The mother of the applicant submitted an application dated 27.07.1989 before the Divisional Railway Manager, Eastern Railway, Danapur for appointment of the applicant on compassionate ground, also filing a relevant affidavit fortifying her claim. Thereafter the Sr. Divisional Personnel Officer issued letter dated 27.04.1999 to applicant's mother requiring therein for a fresh affidavit sworn in before a Magistrate [Annexure-1].

3. Thereafter the Divisional Railway Manager, Danapur issued a letter dated 21.09.2001 [Annexure-2] stating therein that there was no provision for pension to the dependents of ex-CPC [which was allowed to the widow], hence stoppage of pension and returning the pension amount so received was necessary before further proceeding with regard to the appointment of the applicant. Controverting this, the mother sent an application dated 16.01.2002 [Annexure-3]. The applicant himself on 25.10.2005 filed an application before the 'Compassionate based Appointment Court - 2005' but the same was rejected vide order dated 10.11.2005 [Annexure-4].

4. It is submitted that one Raghunandan Rai and some others have been so appointed on compassionate ground on different dates starting from 04.03.1993 whose father were also ex-CPC.

5. The main question as to whether or not the applicant's case is fit



to be allowed for his appointment on compassionate ground can be answered on the basis of the materials available on record itself. It is clear that the father of the applicant had died as back as on 16.06.1988. The applicant had not given the date on which his mother had first requested the authorities for appointment of her son on compassionate ground, nor the learned counsel for the applicant could answer this but from Annexure-1 it would be clear that the application must had been filed prior to the date of that letter, i.e., 29.04.1999. No doubt thereafter also the same prayer was repeated but his mother was intimated in that regard vice Annexure-2, a letter dated 01.09.2001 of the Railway authorities that there was no provision for grant of family pension to the dependents of a deceased CPC employee but the widow was getting such pension to which she was not entitled, hence she was directed to submit a letter for immediately stopping the family pension and agreeing to return back the amount of family pension already paid so that the case of appointment of her son on compassionate ground could be taken up. However, Annexure-3 is another letter of the mother of the applicant in response to the respondents letter dated 13.09.2004 in which she had made point against stoppage of pension and for compassionate appointment. The same reply was sent by the respondents vice Annexure-4, dated 10.11.2005.

6. Therefore, it appears from the materials brought on the record that after the death of the applicant in the year 1988, an application was sent on 27.07.1989 [admitted case] and, perhaps, sometime before April, 1999 for which a reply was sent by the respondents. In the year 2001 itself [Annexure-2] she was intimated about stoppage of pension and for returning the



family pension amount already received before case for compassionate appointment could be taken. Whether or not such a direction could have been issued is an altogether different matter and I do not propose to enter into that but the fact remains that as back as in the year 2001 itself, the applicant was told, which was repeated subsequently also by the respondents on receipt of further applications, that if a particular action was not taken on behalf of the mother of the applicant, the case for appointment on compassionate ground could not be taken. Thereafter this application was filed for the first time on 14.02.2006.

7. Therefore, it will appear that not only the applicant has moved this Tribunal much beyond the period of limitation as envisaged under Section 21 of the A. T. Act, but the applicant's actions were also full of laches in not taking appropriate legal action within a reasonable time, as also for moving for appointment on compassionate ground many years after the death of the CPC which fetched reply in the year 1999 [Annexure-1]. Filing of various applications which might be replied to on different dates will not extend the period of limitation as Section 21 of the A. T. Act provides that if an application has been filed and if that is not disposed of within six months, an application to this Tribunal can be filed within one year of the expiry of the aforesaid period of six months. To the matters in the Tribunal only the provisions of A. T. Act would apply because the provisions have overriding effect over other law for the time being in force, vice Section 33 of the A. T. Act.

8. If, in the aforesaid backdrop, the prayer of the applicant for



appointment on compassionate ground is considered after more than 17 years of the death of the applicant's father, that would defy the very principles on which appointment on compassionate ground is given.

9. In view of the aforesaid circumstances, I do not find that there is any merit in this application which, in the circumstances, is dismissed.


[P. K. Sinha]/VC

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