

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 753/96

Date of Decision: 19-06-97

Manohar Arjun Dasgaonkar

.. Applicant

Shri M.S.Ramamurthy

.. Advocate for
Applicant

-versus-

U.O.I. & Ors.

.. Respondent(s)

Shri V.S.Masurkar

.. Advocate for
Respondent(s)

CORAM:

The Hon'ble Shri M.R.Kolhatkar, Member(A)

The Hon'ble

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to other Benches of the Tribunal ?

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.753/96

pronounced this the 19th day of June 1997

CORAM:

HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

Manohar Arjun Dasgaonkar,
58, Motiram Dayaram Chawl,
Room No.9, Sunill Road,
Lower Parel,
Mumbai - 400 013.

By Advocate Shri M.S.Ramamurthy .. Applicant

-versus-

1. Union of India
through
The General Manager,
Western Railway,
Churchgate,
Mumbai - 400 020.

2. The Chief Personnel Officer,
Western Railway,
Churchgate,
Mumbai - 400 020.

3. The Chief Works Manager,
Carriage Workshop,
Western Railway,
N.M.Joshi Marg,
Lower Parel,
Mumbai - 400 013.

By Counsel Shri V.S.Masurkar .. Respondents

- : O R D E R : -

(Per M.R.Kolhatkar, Member(A))

O.A.,

In this the applicant has impugned letter dt. 9-8-1995 from Chief Works Manager's Office, Western Railway. The same relates to employment on compassionate grounds and the request is rejected on the ground that the Ex-Railway employee Shri Arjun Devji was removed from service on 2-9-66 and since this is a case of "Removal from Service" appointment on compassionate ground would not be admissible. The applicant states that he is the son of the late Govt. employee and he was minor at the time of removal of his father from the railway service. Shortly thereafter the father died on 22-12-1967.

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The applicant's mother is stated to be in receipt of family pension. The applicant has studied upto fourth standard. He is married and has two small children and does not have any regular employment and the grounds on which the letter dt. 9-8-95 is impugned are that the order of the Railways is arbitrary, that under Rule 6(viii) of the Railway Servants(Discipline & Appeal)Rules,1968 removal from service is not a bar for future employment under the Government or even under the same Railway Administration: that the condition of the applicant and his family is pathetic because they are living in a state of penury and they have no source of income other than family pension of his mother of Rs.300/- and that the reasons given for rejection are not based on any specific provisions of the Departmental instructions.

2. The respondents have opposed the O.A. According to them, the OA lacks material particulars relating to the age of the applicant and the circumstances under which his mother is getting family pension although the applicant's father was removed from service which would normally disqualify him from getting a pension and his wife from getting family pension. All the same from the facts as disclosed it is contended that the OA is time barred because the time limit for making a compassionate appointment is five years from the date of death/medical incapacitation of Govt. employee. Secondly even apart from limitation the applicant does not fulfill the conditions laid down for appointment on compassionate grounds which are annexed at Ex.R-1. So far as the contention of the applicant that removal from service is not listed as a disqualification for appointment

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on compassionate grounds of the sons/daughters of the concerned Govt. employee is concerned, it is stated that the pre-condition for compassionate appointment is that the Govt. employee should have died in harness while in service before retirement. A removed employee is no longer in service and when he dies he cannot be said to have died in harness. So far as the reference to Rule 6(viii) of the Railway Servant(Discipline & Appeal)Rules to the effect that removal from service is not a bar for future employment under the Govt. it is too farfetched to link up the issue with the employment of the son/daughter of the Govt. employee.

3. Finally the respondents have relied on the judgment of the Supreme Court in the case of Union of India vs. Bhagwan Singh,(1995)31 ATC 736.

4. I have considered the matter. The Hon'ble Supreme Court in the judgment quoted by the respondents have referred to the judgment of the Supreme Court in the case of Umesh Kumar Nagpal v. State of Haryana,(1994)27 ATC 537, in which it was held that the reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a government servant who dies in harness, when there is no other earning member in the family. Thus for the dependent of late Govt. employee to become eligible there is required to be a nexus between the employing department and the late Govt. employee. That nexus is provided by employment. Removal from service snaps that nexus. The removed Govt. servant therefore cannot be said to have died in harness. In this case the applicant is the son of the late Govt.

employee. At the time he was removed from service, there ceased to be a nexus with the employer. He died shortly after the date of removal. Therefore he cannot be said to have died in harness. I am, therefore, of the view that the OA is devoid of merit apart from being barred by limitation. The OA is therefore dismissed both on merits as well as limitation.

5. No order as to costs.

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)

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