

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.569/1999

Dated this 30<sup>th</sup>, the th Day of March, 2001.

Shri K.B. Dhindale .... Applicant

(Applicant by Shri K.B.Talreja, Advocate)

Versus

1. Union of India & Ors.. .:.. Respondents

(Respondents by Shri A.I.Bhatkar, Advocate)

CORAM

Hon'ble Smt. Shanta Shastry, Member (A),

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

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

(3) Library. ✓

  
(Smt. Shanta Shastry)  
Member (A)

sj\*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

Original Application.No.569/1999

Dated this, 30<sup>th</sup> the day of March, 2001.

CORAM: HON'BLE SMT. SHANTA SHAstry, MEMBER (A)

Shri Kundalik Baloo Dhindale,  
S/o Shri Baloo Dhindale,  
Ex-Fireman in Loco Steam Shed,  
Kalyan (C.Rly).  
R/o 6-Bungalows,  
Railway Outhouse,  
Igatpuri,  
Dist. Nashik.

.... Applicant.

(Applicant by Shri K.B.Talreja Advocate)

vs.

1. The Union of India,  
through the General Manager,  
Central Railway,  
Mumbai CST.

2. The Divisional Railway Manager,  
Central Railway,  
Mumbai CST.

.... Respondents.

(Respondents by Shri A.I.Bhatkar, Advocate)

O R D E R

[Smt. Shanta Shastry, Member (A)]

The relief sought in this O.A. by the Applicant is for direction to the Respondents to consider him for appointment on compassionate grounds in any Group D post and to give him early appointment.

2. The Applicant is a son of missing employee of the Railways Shri Balu Dhindale who was working as Fireman Grade C under the S.L.I-Kalyan. The Applicant's father has been missing from 1985. The Applicant's date of birth is 28.2.1980 and he

belongs to the S.T. Community. His Application for Compassionate Appointment was referred to the DRM, MBCSTM by the Chief Personnel Officer, Headquarters Office, MBCST for consideration. However, the Applicant has not been granted the compassionate appointment so far.

3. The Respondents submit that the father of the Applicant was removed from service w.e.f. 30.4.1989 for remaining unauthorisedly absent from duty w.e.f. 9.4.1984 after following the due process and therefore, the Applicant is not entitled for compassionate appointment. Further he is also not entitled to such an appointment after lapse of several years. The Application suffers from delay and laches. The Respondents however, stated that they do not admit the Applicant's father as missing from 1985. As per their records, he was removed from Service. The report regarding the missing of the father was made to the Police only in the year 1996, though it is claimed that the father was missing from 1985. The Applicant has failed to prove that his father is missing really from 1985. The Respondents, therefore, having <sup>not</sup> agreed to grant compassionate appointment to the Applicant.

4. The Applicant however, contends that the Respondents have failed to follow the directives given by the Railway Board in their Master Circular No.5 which *inter alia* states that the service records of the Staff should be kept upto date. The Master Circular No.16 relates to appointments on compassionate grounds even that has not been followed. The Applicant submits that the delay is mainly due to the loss of the personal file of the Applicant's father which badly reflects on the working

of the Personnel Branch of the Respondents. The Applicant approached the Respondents only in the year 1998 vide their letter dated 4.9.1998 for the first time for compassionate appointment. The Notice thorough Advocate was also sent on 12.4.1999. Efforts were also made to seek support through the All India Scheduled Castes and Scheduled Tribes Central Railway Employees Association, vide letter dated 4.9.1998. The Applicant also submits that he has correspondence with the Respondents but without any result.

5. I have heard the learned Counsel for the Applicant as well as the Respondents. In normal cases, as per the Railway Board's directions, when an employee is missing genuinely the dependent family members of the missing employee are entitled to compassionate appointment after a period of 7 years from the date of disappearance of the employee. [Railway Ministry's letter No.E (NG)/11/81/RC-1/251 dated 6.2.1982, 24.5.1982 and 21.12.1983 as well as Railway Board Order No.130.] Similarly Railway Board's Order No.130 makes it clear that the penalty of removal from service imposed on the charge of unauthorised absence where it later transpires the case is one of genuine missing, in such cases also compassionate appointment to the wards of the disappeared persons may be considered after a period of 7 years/3 years as provided in Board's letter dated 7.4.1983 (letter dated August 1995). Thus, the ground that the Applicant's father was removed from service cannot come in the way of seeking compassionate appointment by the Applicant. Further the Railway Board's Order No.75 also has laid down that a request to grant the benefit of compassionate appointment can

be considered in the case of wards of missing Railway employees after a lapse of at least 2 years from the date from which the Railway employee has been missing, provided FIR has been lodged and the missing person is not traceable and the competent authority feels that the case is genuine. The Railway Board also has stated that compassionate appointment could not be claimed as a matter of right and shall be subject to fulfillment of all conditions. In view of these provisions the Applicant's case for compassionate appointment could have been considered had he approached the Respondents well in time and fulfilled the conditions.

6. The Applicant has come with a representation 13 years after the disappearance of his father. Even though the Applicant might not have been a major at the time of his father's disappearance, the Applicant's mother could have applied for the appointment. But I find that the family has slept over the matter for the past 13 to 14 years in spite of beneficial provisions available. I have, therefore to hold that the Application is barred by limitation and also compassionate appointment is meant to be given when the family is in immediate shock on the death/disappearance of the earning member of the family. It cannot be said that the circumstances would be the same after a lapse of 13 to 14 years. According to me the Applicant's prayer for compassionate appointment is not justified when the family has managed without the earning member for the past 14 years. In the light of the Railway provisions and the inordinate delay by the Applicant in

approaching the Respondents as well as this Tribunal, I am unable to grant any relief in this matter.

7. The O.A. is, therefore, dismissed. I do not order any costs.

*Shanta S*

(Smt. Shanta Shastry)  
Member (A)

sj\*