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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 504/91
 XXXXXXXX

198

DATE OF DECISION 9.4.1992

Shri A.D.Sarfare Petitioner

Shri C.M.Jha Advocate for the Petitioner(s)

Versus

Union of India & anr. Respondent

Shri N.K.Srinivasan Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U.C.Srivastava, Vice Chairman

The Hon'ble M^S. Ushà Savara, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?



(6)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 504/91

Shri A.D.Sarfare

... Applicant

V/S.

Union of India & anr.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice U.C.Srivastava
Hon'ble Member (A) Ms.Usha Savara

Appearance

Shri C.M.Jha
Advocate
for the Applicant

Shri N.K.Srinivasan
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 9.4.1992

(PER: U.C.Srivastava, Vice Chairman)

As a short question is involved in this case, the application can be heard and disposed of finally. Admit. The applicant's father who was in the service of Western Railway died in harness on 24.12.1975 leaving behind a widow, two minor sons and two minor daughters. The first child appears to be a daughter who according to the applicant was a patient of tuberculosis ~~and the question~~ which has not been disputed. The applicant was aged 7 years when his father died. After attaining the age of 17 years, he passed High School Examination in the year 1985 and at that time he had completed 17 years of age and consequently, he moved an application for an appointment on compassionate ground in place of his father. The respondents had replied to the said application in the year 1988 stating that the application was received by them in the year 1987 and the appointment could not be given. The applicant made persistent effort to get appointment in place of his father and after failing to get the said appointment, he knocked ^{at} the door of Tribunal.

The respondents have resisted the claim of the applicant contending that the application which was received from him was received at the stage when he was aged more than 19 years that is, one and a half years after attaining the age of majority and further he was not the eldest child of his father and as such compassionate appointment could not have been given more so when 10 years period, the maximum period prescribed for giving compassionate appointment which was subsequently extended to 11 years had already expired. Giving of compassionate appointment ~~was~~ is one of the welfare schemes which has been framed by the Central Government under ~~and the same~~ the directive principles of state policy is not confined to ~~letters of~~ law and no where it is stated that if a particular person dies leaving a child aged one year, then that child on attaining majority cannot get the appointment because 11 years has lapsed. So far as giving of the appointment to the first child is concerned that is only directory and not mandatory. In case the first child refuses or is not in a position to accept a job or is an illiterate or is a sickly person or not interested in job naturally the compassionate appointment will go to the second child in case he is desireous of the same and the next in the kin and ~~if~~ ~~the~~ the widow also approves the same. Factually the same thing arises in this case. The application was given in the year 1985, if it reaches the officer ~~or~~ table of the competent officer one and a half year thereafter the applicant is not to be blamed for the same. Even if the application was sent in the year but was given to the competent authority after one and a half year that was not a long period so as to disentitle the applicant from getting the compassionate appointment. There was no justification for the respondents on any ground or count to refuse to give compassionate appointment to the applicant which was within his rights in view of the scheme of compassionate appointment. Accordingly,

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this application deserves to be allowed and the respondents
are directed to give ^a suitable post in accordance with his
qualification to the applicant as far as possible within
a period of three months from the date of communication
of this order. No order as to costs.

U. Savara.
(MS.USHA SAVARA)

MEMBER (A)

U.C. Srivastava
(U.C.SRIVASTAVA)
VICE CHAIRMAN

mrj.