

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 399/93

Transfer Application No:

DATE OF DECISION 25.8.1994

Smt. Hiraba Damu Chaitre & Anr. Petitioner

Shri Y.R.Singh.

Advocate for the Petitioners

Versus

Union of India.

Respondent

Shri Subodh Joshi.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman.

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement? NO
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the full copy of the Judgement? NO
4. Whether it needs to be circulated to other Benches of the Tribunal? NO

  
(M. S. DESHPANDE)

VICE-CHAIRMAN

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
BOMBAY BENCH, BOMBAY.

Original Application No. 399/93.

Smt. Hirabai Damu Chaitre.

.... Applicant.

V/s.

Union of India & Anr.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman.

Appearances:-

Applicants by Shri Y.R. Singh.

Respondents by Shri Subodh Joshi.

Oral Judgment :-

[Per Shri M.S.Deshpande, Vice-Chairman] Dated: 25.8.1994

This is an application by the widow and the son of the deceased employee of the Respondents Late Damu Chaitre who died while in service on 15.8.1984. The appointment is sought for the applicant No.2 Mukesh who was a minor at the time of the father's death and attained majority on 17.1.1989. No application was made for getting a compassionate appointment for the applicant even after his attaining majority, but instead the second applicant's elder sister applied for a compassionate appointment and an order was passed granting her an appointment on 18.4.1991. According to the applicant's the sister did not join, but eloped and the family could not avail of the appointment offered to his sister. The present applicant No.2 made applications on 18.5.91, 15-7-91 and 2.8.91 for a compassionate appointment, but that came to be rejected on 9.12.1991.

2. The submission of the learned counsel for the

applicant is that the right to obtain compassionate appointment could not have been exhausted by offering an appointment to elder sister of the applicant No.2 who had not joined. A reference was made to the Railway Board consolidated Order on appointment on compassionate ground. Clause X thereof says that where the widow cannot take up employment, Railways can keep the case for appointment on compassionate grounds open to enable consideration of appointment of a minor son when he attains majority, even though at the time of occurrence of the event making compassionate appointment ~~was~~ permissible, there is a daughter who has attained majority and/or a major son who is already employed and this will be subject to the three conditions one of which provides that the Competent Authority should be satisfied about the bonafides of the request of the widow or if there is no surviving widow of the family, that appointment should be given to a minor son (when he attains majority) instead of a daughter or an employee's son who is already major. It is clear that in the present case the Railway Authorities did not keep the case of compassionate appointment open in terms of Clause 10, but offered the appointment to the deceased employees daughter. Clause (c) cannot be invoked in the present circumstances because the substantive part of clause was not applied. It is therefore, difficult to agree with the learned counsel for the applicant that the applicant No.2 would be entitled to be considered for compassionate appointment despite the offer having been made to his elder sister

on 18.4.1991 and which was not accepted by her. Even otherwise, it is clear that the distress condition of the family immediately upon the death of the bread-winner has to be kept in mind. The father who was the bread-winner died on 15.5.1984 and the matter of compassionate appointment came to be considered and was ultimately granted to the deceased employee's daughter on 18.4.1991 i.e. 7 years after the death of the deceased employee. The applicant had attained majority on 17.1.1989 and he could have sought a compassionate appointment before the sister was offered it on 18.4.1991. But he did not do anything until the first application was made on 24.4.1991, that is more than two years and three months after the applicant No.2 attained majority. The appointment on compassionate ground is now being sought in the year 1994 i.e. 10 years after the father's death. At this distance of time their distress resulting from the father's death cannot be a proper consideration. I, therefore, find that no exception can be taken to the Respondents rejection of the applicants' prayer.

3. There is no merit in the application, it is dismissed.

(M.S.DESHPANDE)  
VICE-CHAIRMAN

B.