

14/8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 636/97

Date of Decision: 28-08-97

1. Smt. Tarabai Parasram Gondule

2. Ku. Krishna Parasram Gondule

Applicant.

Shri F.X. Santiago

Advocate for
Applicant.

Versus

GM, SE Railway & 3 Ors.

Respondent(s)

None

Advocate for
Respondent(s)

CORAM:

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

Hon'ble Shri.

- (1) To be referred to the Reporter or not? X
- (2) Whether it needs to be circulated to other Benches of the Tribunal? X

M R Kolhatkar

(M.R. KOLHATKAR)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.636/97

Presented this the 29th day of August 1997

CORAM:

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

1. Smt.Tarabai Parasram
Gondule
2. Ku.Krishna Parasram
Gondule

By Advocate Shri F.X.Santiago

.. Applicants

-versus-

1. The General Manager,
South Eastern Railway,
43, Garden Reach,
Calcutta.
2. Divisional Railway Manager,
South Eastern Railway,
Nagpur.
3. Divisional Personnel Officer,
South Eastern Railway,
Nagpur.
4. Sr, Divisional Engineer,
South Eastern Railway,
Nagpur.

.. Respondents

ORDER

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

In this OA the applicant has challenged the communication dt. 2-6-95 addressed to applicant No.1 regarding compassionate appointment in respect of applicant No.2 consequent on medical incapacitation of the husband of applicant No.1 w.e.f. 22-7-88 and subsequent death on 11-10-88. The impugned letter states that "the case has been examined and it is found that your case is time barred and hence employment assistance to your daughter cannot be extended."

2. The counsel for the applicant contends that immediately after medical incapacitation of the railway employee (Parasram) he had, while he was alive, applied on 12-8-88 for compassionate appointment for his son, Ashok, by his first wife. There was no reply to this application inspite of letters sent on 18-10-93, 14-2-94, 1-2-95 etc. Hence Ashok had written a letter on 20-4-95 stating that he was in indifferent health and therefore his sister Krishna, present applicant No.2, may be considered for compassionate appointment. The contention of the counsel for the applicant is that Krishna attained majority on 14-8-92 and Ashok having withdrawn in favour of Krishna, a fresh cause of action accrued to Krishna and it was illegal for the Railway administration to have refused the application of Krishna on the ground of being time barred. In this connection applicant relies on Railway Board's letter, No.E(NG)II/84/RC-1/26 dt. 6-10-95^{under which} power delegated to General Manager which could be earlier exercised upto time limit of 15 years can now be exercised upto time limit of 20 years and cases where death took place over 20 years ago or where the application for appointment is made after over two years after attaining majority, or where the application has been made for other than the first son or the first daughter, beyond ~~fix~~ the limit of five years from the death of employee

prior approval of the Railway Board should be obtained.

3. I ^{have} considered the matter. The application for Ashok was made on 12-8-88. If there was no reply, in terms of Section 21 of the A.T. Act, the applicant ought to have filed O.A. within 18 months from 12-8-88. He did not do so. Therefore the claim of ~~xx~~ Ashok has time barred and it is futile to argue that Ashok had some vested right which he could relinquish in favour of his step sister at his own will; in this particular case on 24-4-95. Considering the case from the point of view of Krishna applicant No.2 she attained majority on 14-8-92 and independently of any claim by Ashok having been relinquished in her favour she could have applied immediately on attaining majority ^{or} within two years from attaining majority as indicated in the Railway Board circular dt. 6-10-95. ^{It cannot be} argued that the applicant has a right to have his case forwarded with a recommendation from the General Manager to the Railway Board for considering her application filed even beyond two years after attaining majority. It is the matter of discretion for DRM and GM to consider which cases ^{are} to be forwarded to Railway Board. The OA is therefore clearly time barred so far as this Tribunal is concerned, apart from the reason given by the Railway Administration and on this ground ~~alone~~ ^{it} is liable to be dismissed.

4. There is another consideration. The applicant's husband was medically incapacitated on 22-7-88. It is difficult to see as to how distress test can be said to be satisfied after almost 9 years, the present OA having been filed on 18-6-97. OA therefore does not deserve consideration on merits also.

5. The OA is therefore dismissed at the admission stage both on ground of limitation as well as on merit with no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member(A)

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