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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

B.A.No. 535 of 1989

Date of order: 18-12-1989.

Between:-

A.Muragaiah.

...APPLICANT(S)

A N D

The General Manager, S.C.Railway,
Secunderabad and 2 others.

...RESPONDENT(S)

FOR THE APPLICANT(S) : Shri J.M.Naidu, Advocate.

FOR THE RESPONDENT(S) : Shri N.R.Devaraj, SC for Rlys.

C O R A M :- THE HON'BLE SHRI D.SURYA RAO:MEMBER:(JUDL.)
THE HON'BLE SHRI R.BALASUBRAMANIAN:MEMBER:(ADMN.)

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contd...

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ORDER OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO, MEMBER(J)

The applicant herein claims that he is ^{the} son of a deceased Railway employee who died in the year 1973. He sought employment in the Railways in May 1988 when his mother filed an application requesting that he may be appointed as he ~~has~~ attained the majority and also qualified himself by passing the SSC examination. She was informed on 13.6.1988 that the representation for compassionate appointment could not be granted as her ~~husband~~ died over 15 years back and such ^a request can be entertained upto a maximum period of 5 years from the date of the incidence. It is stated that an appeal was made to the 1st respondent but no reply was received. Thereupon, the present application is filed to declare that the ~~refusal of the applicant~~ for appointment by the 2nd respondent and non-consideration of his case by the 1st respondent is illegal and violative of articles 14 and 15 of the Constitution.

2. On behalf of the respondents/Railways, a counter has been filed denying the claim of the applicant. It is stated that as per the instructions, the widow or wards of the deceased employees should put forth their claims within five years from the date of occurrence of the death. Normally, when an employee dies, the administration gives preference to the widow. If the widow cannot take-up the appointment, then the major son, if available, will be considered. Where all the children are minors, it is open to the widow to seek administration's approval for appointment of the minor son immediately after he attains majority or within six months from the date of his attaining the majority. In the instant case, neither of the alternatives are followed either by the widow or by the applicant. It is stated that the applicant himself has stated that he has applied for appointment

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at the first instance on 11.5.1988 i.e., beyond the period prescribed. Therefore, it is contended that under the rules, the applicant is not eligible for appointment on compassionate grounds.

3. We have heard the learned counsel for the applicant and Shri N.R.Devaraj, Standing Counsel for the Railways. Shri Devaraj has brought to our notice, the Railway Board's instructions contained in letter No.E(NG)/III-78/RCL/1 dated 30.4.1979 and letter No.E(NG)/II-84/RCL/26 dated 18.4.85. By the 1979 instructions, it was made clear that the compassionate appointments could be made when an employee dies in harness and such employment is restricted to a son/daughter/ widow of the employee. Where the widow could not take up the employment, the case may be kept pending till the first son/daughter becomes major. Such case should be kept pending only for five years after which the claim will lapse. The rule, however, provided that in the case of death in the course of duty, a General Manager can direct relaxation beyond five years. In the Railway Board's letter dated 18.4.1985, the rule position as contained in the earlier instructions dated 30.4.1979 which stated that under these rules, the General Manager could personally authorise relaxation of the limit of five years only in cases where the employee died in the course of the duty was referred to. Reference was also made to an instruction issued in 1980 wherein a provision was made for approaching the ministry for relaxation of the limit of five years, in other cases. Thereafter, the Railway Board's instructions dated 18.4.1985 laid down that the time limit of five years may be relaxed by the General Manager but such relaxation should not be more than 10 years old as reckoned from the date of death. These instructions contain a further

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condition that requests for compassionate appointment should have been received as soon as the son/daughter has become major, say within a maximum period of six months after attaining the majority. It is thus clear that either by the 1979 instructions or by the 1985 instructions, the applicant was not eligible for appointment on compassionate grounds since his father died in 1973. The maximum period for which the General Manager could have given relaxation was 10 years from the date of death. The applicant having applied or become major only after 1985, there is no scope for the General Manager to relax the rules. In any event, the applicant had not applied immediately after he attained the age of 18 years but more than two years thereafter. It is sought to be contended by the learned counsel for the applicant that the applicant could not apply earlier as the compassionate appointments could be made only to certain limited Group 'C' posts but not for Group 'D' posts and immediately after the applicant qualified himself for the Group 'C' post by passing the SSC examination, he had made an application. Even according to the rules produced by the applicant, it appears that a person could be appointed to a Group 'D' post and thereafter considered for Group 'C' post. It cannot, therefore, be said that the applicant could not have applied for a Group 'D' post immediately after he attained the age of 18 years, within the six months period prescribed. Since there was scope for his making an application for appointment immediately after attaining 18 years and he did not do so, he is further barred under the 1985 instructions from claiming appointment on compassionate grounds.

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4. For these reasons, we find no merit in the claim of the applicant. The application is accordingly dismissed. There will be no order as to costs.

(Dictated in the open Court).


(D. SURYA RAO)
Member (Judl.)


(R. BALASUBRAMANIAN)
Member (Admn.)

Dated: 18th December, 1989.


S. Venkateswaran
DEPUTY REGISTRAR (J.)

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To

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. The Divisional Personnel Officer, Personal Branch, Guntakal.
3. The Chairman, Railway Board, Rail Bhawan, N. Delhi.
4. One copy to Mr. J. M. Naidu, Advocate, H. No. 18-11, Kamalanagar, Near Dilsukhnagar, Hyderabad.
5. One copy to Mr. N. R. Devaraj, SC for Rlys, CAT, Hyderabad.
6. One spare copy.

vsn

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Draft by S.M.J. Checked by: Approved by
D.R.(J)

Typed by S.M.J. Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR. B. N. JAYASIMHA: (V. C.)
AND

HON'BLE MR. D. SURYA RAO: MEMBER (JUD)

HON'BLE MR. B. B. A. SUBRAMANIAN
AND

HON'BLE MR. D. N. CHAKRABORTY: MEMBER: (A)

AND

HON'BLE MR. J. NARASIMHA MURTHY: MEMBER (J)

DATED: 18/12/89

ORDER/JUDGMENT

M.A./R.A./C.A./No. in

T.A. No. (W.P. No.)

C.A. No. 531/89

Admitted and Interim directions
issued.

Allowed.

Dismissed.

Disposed of with direction.

M.A. Ordered.

No order as to costs.

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