

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 596 of 1990 with
M.A.No.401/90

Date of Order: 16.8.90.

Between:

1. Smt.S.Lakshmi Kanthamma
2. Sri M.Subba Rao

and

..Applicants

in both the applications

1. The Union of India, South Central Railway, Secunderabad, rep. by its General Manager, Sec'bad.
2. The Divisional Railway Manager, South Central Railway, Vijayawada

..Respondents

(Sd/-)

APPEARANCE:

For Applicants: Smt.K.Satya Kumari, Advocate

For Respondents: Sri N.R.Devaraj, SC for Railways

...

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER(JUDICIAL)

....

(Judgment delivered by Hon'ble Shri B.N.Jayasimha, Vice Chairman)

.....

1. The applicant no.1 is the widow of one S.Krishnaiah deceased Fitter Khalasi who worked under the CTXR/NPOH/BTTR in Loco Shed, Mechanical Department, Bittargunta. Applicant no.2 is the younger brother of applicant no.1. The applicant has filed this application aggrieved by the letter of the respondent no.2 rejecting the request of the applicant for appointment of applicant no.2 on compassionate grounds.

bn

To

1. The General Manager, Union of India,
S.C.Railway, Secunderabad.
2. The Divisional Railway Manager, S.C.Railway, vijayawada.
3. One copy to Mrs. K.Satya Kumari, Advocate
46, venkatapuram Colony, Padma Rao Nagar, Secunderabad.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench
5. One spare copy.

pvm.

12/10/12

..4..

10-2-1990 .. Applicant submitted another representation to the respondents
14-6-1990 .. Applicant submitted another representation
19-7-1990 .. OA filed in this Tribunal

Shri Devaraj contends that the representation of the applicant was rejected as long back as May 1986 and that the contention that the delay is only 7½ months as stated in the condonation delay petition is not correct. The learned counsel for the applicants urges that the applicant no.1 has been making representations in the bonafide belief that it would be considered by the respondents. It is only after she failed to get redressal of her grievances that she took legal advice and filed this application. On a careful consideration of these submissions, we find that no satisfactory reason has been given by the applicants for the delay in filing this application. It has been held in Shanti Prakash Vs. Union of India (ATR 1989(1) CAT 591 that repeated representations do not save limitation. The cause of action for the applicants ^{arose} ~~occurred~~ when the respondents rejected her representation on 13-5-1986. In the circumstances, the application for condonation of delay has to be dismissed as belated. The MA as well as the OA are accordingly dismissed. No order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

D. Surya Rao
(D. SURYA RAO)
MEMBER (JUDICIAL)

DT. 16th AUGUST, 1990

SQH*

.....

Deputy Registrar
Deputy Registrar (Juol)

..3..

to respondent no.2 to consider her request. The respondents by letter dated 13-5-1986 and 14-12-1988 stated that after a careful consideration it was found that her request cannot be considered. She contends that no reason has been given for rejecting her claim. She further contends that if she has been given an opportunity of personal hearing she would have satisfied the authorities with regard to eligibility for appointment on compassionate grounds. Hence, she has filed this application.

4. The applicant has also filed M.A.No.401/90 seeking condonation of delay of 7½ months in filing the Original Application.

5. We have heard the learned counsel for the applicants Smt.K.Satyakumari and Shri N.R.Devaraj, standing counsel for Railways. ~~She~~

6. Shri Devaraj contends that no reasons have been given for the condonation of delay and the application has to be rejected on the ground of limitation. The following facts are relevant:

- 19-7-1985 .. Applicant no.1's husband i.e. Railway employee died
- 22-1-1986 .. Applicant submitted representation for appointing his brother on compassionate grounds.
- 13-5-1986 .. Respondents informed the applicant that it was not possible to consider his brother for appointment as per rules.
- 18-11-1988 .. Applicant submitted another representation
- 14-12-1988 .. Respondent informed the applicant that the matter has been carefully examined by the competent authority and the request cannot be considered as already indicated in the earlier reply.

avi

..2..

2. The applicant no.1 states that she is the widow of late S.Krishnaiah who worked as Fitter Khalasi in the Locoshed, Mechanical Department, Bittargunta. Her late husband joined the Railways as Casual Labourer on 1-3-1973. He was absorbed permanently as Khalasi on 27-4-1976. He expired while working as Fitter Khalasi on 19-7-1985 due to cancer. She could not take up any job as she does not have any aptitude to do any work. Keeping in view of her future in old age, she requested respondent no.2 in her letter dated 5-10-1988 to offer class IV appointment to her near relative and a trusted bread winner in whom she has confidence. Applicant no.2 is her own younger brother and he is eligible for appointment in the establishment of the respondent.

3. The Railway Board Orders dated 25-8-1980 and 3-2-1981 dealing with appointments on compassionate grounds lay down that "a near relative, a blood relation, who can function as bread winner may be given appointment provided the employee in death cases has no son/daughter and a Certificate is given by the widow/widower that that person will act as a bread winner. The near relative should not however be considered if a son or a daughter of the widow is already working and earning." She states that she does not have any children of her own and applicant no.2 is her own brother and blood relative and he is looking after her well as a bread winner. She has filed a declaration to this effect. Applicant no.2 has studied upto 9th class. After the death of her husband on 19-7-1985 she has been making a number of representations

bvi

contd...3

13

authorities are promising to look into the matter.

- (2) The court should have applied the Principles of equity, Justice and good conscience and considered the fact that the deceased employee is the only earning member and though he died issueless there are four dependents depending on him.
- (3) Opportunity of hearing should have been given before the respondents rejecting the representation.
- (4) The right of appointment should not be denied on the ground of delay and the application should have been allowed as the applicants has explained the delay and failure to explain the delay should not defeat his claim.
- (5) The Tribunal should have passed an order directing the Railway Board to re-examine the case on merits since the Board is empowered to examine case sympathetically even after 5 years.
- (6) The Tribunal should have heard this case sympathetically.
- (7) The court should have noted that there is no distinction in the cases of appointment on compassionate grounds between Son/Daughter/Relative.

2. We had rejected the application on the ground that no satisfactory reason was given by the applicant for the delay in filing the application and that the repeated representations do not save limitation. We ~~are also found~~ held that the contentions of the applicant that there is only 7½ months delay is also not correct as the cause of action

contd...3.

(12)

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

R.P.No.85/90
in
D.A.No.596/90.

Date of Order : 4-10-90.

1.S.Lakshmi Kanthamma

2.M.Subba Rao

Vs.

...Applicants/Applicants

1. The Union of India,
South Central Railway,
Secunderabad represented by
its General Manager, Sec'bad.

2. The Divisional Railway Manager,
South Central Railway,
Vijayawada.

...Respondents/Respondents

- - - - -

Counsel for the Applicants : Smt.K.Satya Kumari

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys

- - - - -

CORAM:

HON'BLE SHRI B.N.JAYASIMHA : VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO : MEMBER (Judicial)

- - - - -

(Judgment delivered by Shri B.N.Jayasimha,
Vice-Chairman in circulation)

- - - - -

This Review Petition is from the applicant in
Original Application No.596/90 for a review of our order
dated 16-8-90. The follow-^{ing} are the grounds urged for
the review :

- (1) Dismissal of the application on the ground
of limitation suffers from the error on
the face of record, for the reason that the
applicants are approaching the concern
authorities from the date of order and the

contd..2.

21/8

5

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

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

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M (J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M (A)

DATE:

16/8/90

ORDER/JUDGMENT:

M.A./ R.A/C?A/No.

in

T.A.No.

W.P.No.

O.A.No.

596/90 with
MA. 401/90.

Admitted and Interim directions issued
Allowed.

Dismissed for Default.

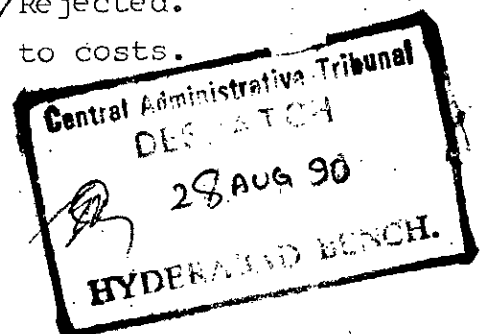
Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.



14

arose for the applicant when the respondents rejected her first representation i.e. on 13-5-1986. None of the grounds now urged, in our view call for a review of our order and do not also fall within the purview of ^a the Review Application. In the result, the Review Application is rejected. No order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice-Chairman

D. Surya Rao
(D. SURYA RAO)
Member (J)

Dated: 4 October 1990.

AVL#

D. Deely
For Deputy Registrar (Judl)

To

1. The General Manager, Union of India,
South Central Railway, Secunderabad.
2. The Divisional Railway Manager,
South Central Railway, vijayawada.
3. One copy to Mrs. K. Satya Kumari, Advocate
16, venkatapuram Colony, Padma Rao Nager, Secunderabad,
4. One copy to Mr. N.R. Devraj, SC for Rlys, CAT. Hyd. Bench.
5. One spare copy.

pvm

5/10/90

Ass
5/10. (3)

CHECKED BY sm APPROVED BY
TYPED BY 5/10/90 COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

Under Circulation
THE HON'BLE MR. B. N. JAYASIMHA : V.C.
AND

THE HON'BLE MR. D. SURYA RAO : M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

DATE: ~~2/10/90~~ 4/10/90

ORDER / JUDGEMENT:

~~M.A.~~ / R.A. / C.A. No. 85/90 in

T.A. No.

W.P. No.

O.A. No. 596/90

Admitted and Interim directions
issued.

Allowed.

Dismissed for default.

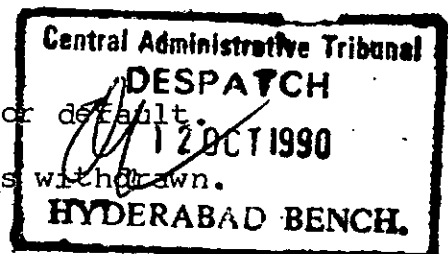
Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

~~R.A.~~ ~~Ordered~~ / Rejected.

No order as to costs.



[Signature] 5/10/90