

47

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

HYDERABAD

O.A.NO.125/95

Between:

Date of Order: 24.7.95.

S.Suresh Kumar

...Applicant.

And

1. The General Manager,
South Central Railway,
Railnilayam,
Secunderabad.
2. The Financial Adviser & Chief Accounts
Officer, South Central Railway,
Secunderabad.
3. The Divisional Railway Manager,
Vijayawada Division,
South Central Railway,
Vijayawada.

...Respondents.

Counsel for the Applicant : Mrs.M.V.Bharathi

Counsel for the Respondents : Mr.N.V.Ramana, Addl, CGSC.

CORAM:

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

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488

DA125/95.

Dt. of Order: 24-7-95.

(Order passed by Hon'ble Shri A.B.Gorthi, Member (A)).

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The applicant is the son of late S.L.Kanta Rao, who, while in service as Gr.II Clerk in D.A.O's Office, S.C. Railway, Vijayawada, died on 8-12-1972. At the time of the death of the employee, the applicant as well as his two elder sisters were all minors. As soon as the applicant attained the age of majority, the applicant's mother made a representation dt.3-8-1984 addressed to the FA & CAO, S.C.Railway, Secunderabad. The said representation was rejected on 22-9-84 stating that her request for giving compassionate appointment to her son cannot be considered favourably at such a belated stage. Hence this Original Application praying for a direction to the Respondents to consider the case of the applicant for appointment on compassionate grounds.

2. The Respondents in their reply affidavit have reiterated that the request of the applicant's mother was rejected in the year 1984 as it was submitted very late. Thereafter the next representation from the applicant's mother was only in 1990. Accordingly the Respondents contend that the applicant's case for compassionate appointment cannot be considered at this distant time when the applicant is of 28 years old.

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3. Heard learned counsel for both the parties.

Shri Ravindra Bharathi, learned counsel for the applicant has contended that initially there was no delay at all on the part of the applicant's mother, who submitted her first representation in this regard in 1984, i.e., when the applicant was just 18 years old. Even then the Respondents unjustly rejected the claim of the applicant's mother on the ground that it was delayed. It is also stated in the O.A. that in a similar case where the employee, viz., late M.Chinnaiah died in 1970, his son, Sri Tirupati was given compassionate appointment on 25-6-1992. It is thus stated that in the case of the applicant there is unfair discrimination.

4. Learned counsel for the Respondents has urged before me that as per master circular No. 1 (NG) II/90/RC-i/117 dt. 12-12-90 appointment on compassionate grounds could normally be made within a period of 5 years from the date of occurrence of the event entitling the eligible persons to be appointed on this ground. The said period of five years may be relaxed by the General Manager on certain conditions, ¹ one of which is that the case should not be more than 10 years old as reckoned from the date of the death. In the instant case it is evident from the averments made in the O.A. that the applicant was only six years old at the time of the death of the employee. The widow somehow managed to bring up her children and married ~~of~~ her elder two daughters also. She, however, cannot be blamed for not approaching the authorities in time for appointment to her son on compassionate grounds. Her appli-

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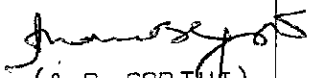
1. The General Manager,
Ravithiayam, Secunderabad.
2. The Financial Adviser, & Chief Accounts
Officer, South Central Railway,
Secunderabad.
3. The Divisional Railway Manager,
Vijayawada Division,
VijayaGada.
4. One copy to Mrs M.V. Bharathi, Advocate,
2-2-1152/4, New Nallakunta, Hyderabad - 44.
5. One copy to Mr. N.V. Ramana, Addl. CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

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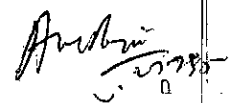
cation submitted in 1984 should have been considered by the Respondents on merits and should not have been rejected. The Master Circular No.E(NG)II/90/RC-1/117 dt.12-12-90, issued six years later in 1990 cannot be of any assistance to justify the improper decision taken by the Respondents in 1984.

5. There is no doubt that there is delay even in the fact that this is a case for compassionate appointment, I am of the considered view that the delay should be condoned and the case of the applicant should be examined on the merits. In this context, the fact cannot be ignored that the Respondents in a similar case considered it on merits and given appointment to one Mr.Tirupati. In view of this, this O.A. is disposed of with a direction to the Respondents to consider the case of the applicant on merits/and not reject the same on the sole technical plea of delay. This direction shall be complied with, within a period of four months from the date of communication of this order. No order as to costs.


(A.B. GORTHI)
Member (A)

Dt. 24th July, 1995.
Dictated in Open Court.

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TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE ~~SHRI A.V. HARIDASAN~~ MEMBER (3)

AND

THE HON'BLE SHRI A.B. GORTHY: MEMBER (1)

DATED 24-7-95

ORDER/JUDGMENT

M.A.NO/R.P.NO./C.P.NO.

in

D.A.NO. 125/95

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

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