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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
J A I P U R .

O.A.NO. 408/93

Date of order: 8.4.1996

Bahadur Singh

: Applicant

versus

1. Union of India through General Manager, Churchgate, Bombay-20.

2. Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.

: Respondents

None for the applicant

Mr. M. Rafiq, counsel for respondents

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

1. The applicant herein Shri Bahadur Singh has filed this application under Section 19 of the Administrative Tribunals Act, 1985 to claim compassionate appointment with the Respondents Railways on account of the death of his father while in service and has also sought quashing of order at Annexure A-1 and to condone the delay in filing the representation for giving appointment on compassionate grounds.

2. This OA has been listed for hearing and even though the case has been called twice, none has appeared for the applicant. Hence, arguments of the learned counsel for respondents Shri M. Rafiq were heard and the record has been examined in detail.

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3. The case of the applicant is that his father Shri Ram Singh Rajawat while working as Class IV employee under the Station Superintendent, Jaipur died on 26.9.1976. At the time of his father's death he was 10 years old. Her mother Smt. Laxmi Devi filed an application on 19.10.1976 to the General Manager, Western Railway, Bombay for giving her appointment on compassionate grounds vide Annexure A-4, to which no reply was received. On attaining the age of majority the applicant moved first application for appointment on compassionate grounds to the General Manager, Western Railway Bombay as also the Divisional Railway Manager, Western Railway, Jaipur (respondents No.1 & 2) on 27.9.1985 (Annex A-5). He made further applications in this regard on 18.10.1985 (Annex A-6) but nothing was heard. Her mother Smt. Laxmi Devi moved a representation on 9.3.1988 (Annex A-7) and a letter dated 14.2.1989 (Annex A-8). It is further the case of the applicant that on the receipt of the letter dated 20.5.1987 from Senior DPO Jaipur (Annex A-9) the particulars were sent to the respondents but with no consequence. After a communication from respondent No.2, the applicant furnished the information sought from him by respondent No.2. This matter of compassionate appointment was also raised through the Western Railway Employees Union and the Union raised this issue vide their letter dated 12.9.1991. His attempts made through the Union has also went futile which was communicated to him by a copy of the minutes of the meeting dated 27.12.91

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(Annex.A-1). The applicant further made a representation to the Railway Board on 20.1.1992 (Annex.A-12) and having heard nothing, he has been constrained to file this application to claim the aforesaid relief.

4. The respondents have opposed this application by filing a written reply to which no rejoinder has been filed. The stand of the respondents has been that no application dated 19.10.1976 alleged to be sent by the mother of the applicant was received by the General Manager, Western Railway, Bombay for appointment on compassionate grounds. The applicant's mother and widow of late Shri Ram Singh Rajawat made an application for appointment of her son for the first time on 9.3.1987. It is further averred by the respondents that the answering respondents received application dated 27.9.1989 for the first time for appointment of the applicant on compassionate grounds which was duly processed. He was asked to furnish original documents etc. After consideration of the entire case, the DRM(E) Jaipur vide its letter dated 17.3.1990 did not find the case of the applicant as fit one for appointment on compassionate grounds who was accordingly informed. Thereafter the matter was further considered by the General Manager, Western Railway, Bombay and vide order dated 28.4.1992 (Annex.R-2) the applicant was not found fit for appointment on compassionate grounds. This was further informed to the applicant vide letter dated 13.5.1992 (Annex.R-3). It has, therefore, been averred by the respondents that the applicant

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having not challenged the aforesaid communications dated 28.4.1992 and 13.5.1992 (Annexures R-2 & R-3 respectively), this application is not maintainable and that challenge to a communication dated 27.12.91 of a Union (Annexure A-1) is of no consequence. The other grounds taken by the respondents has been that the date of birth of the applicant has been 21.7.66 and he should have moved this application for compassionate appointment within one year of attaining the age of majority. He having submitted the application beyond that period, the application is also barred by limitation. It has also been averred by the respondents that the case of the applicant has been sent to the General Manager, Western Railway, Bombay for appropriate relaxation but as the competent authority did not find the case of the applicant fit for making appointment on compassionate grounds, he was accordingly informed vide Annexures R-2 and R-3. It has, therefore, been contended that the application is liable to be dismissed. In support of his arguments, the learned counsel for the respondents has cited the case of Jagdish Prasad vs. State of Bihar and another, 1996(1) Vol. III, SLR 7.

5. I have given anxious thought to the arguments addressed by the learned counsel for the respondents and have carefully gone through the record and the pleadings of the parties.

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6. It appears that the applicant has not approached this Tribunal with clean hands. This is evident from a perusal of application dated 9.3.1987 (Annex.R-1) and the reply filed by the respondents, wherein it has been indicated that after the death of her husband Shri Ram Singh Rajawat (on 26.9.1976), she did not move the Railway Administration as she had no knowledge about the Rules prevailing in the Railway Administration and that for the first time she moved for her appointment on compassionate grounds ~~original~~ on 26.11.1982 whereas in the application it has been averred that the applicant's mother Smt. ~~Laxmi~~ Devi filed an application on 19.10.1976.

7. Moreover, it is also an admitted fact that the date of birth of the applicant is 21.7.1966 and he attained the age of majority in the year 1984. He moved for the first time on 27.9.1985 (Annex.A-5) to seek appointment on compassionate grounds on account of the death of his father in September, 1976, which was followed by other application dated 18.10.1985 (Annex.A-6). It is thus evident that application was made after one year after attaining the age of majority by the applicant. Even then the respondents have considered the case of the applicant for appointment on compassionate grounds at every level. The applicant was not found fit to be appointed on compassionate ground by the D.R.M.(E) in the year 1988 . The General Manager, Western Railway, also did not find the applicant fit for appointment

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on compassionate grounds vide its order dated 28.4.92 (Annexure R-2) which was communicated to the applicant vide letter dated 13.5.1992 (Annexure R-2). It is thus evident that it is not a case where the respondents have not considered the case of the applicant for appointment on compassionate grounds exhaustively. It is after due consideration of the application of the applicant and all relevant factors that the respondents have come to the conclusion that the applicant cannot be given appointment on compassionate grounds.

8. Moreover the applicant has miserably failed to show how he and his mother and other members of the family are pulling on ~~since~~ the year 1975 when he moved to seek appointment on compassionate grounds for the first time in September, 1985. It is in view of these factors that Hon'ble the Supreme Court in the case of Umesh Kumar Nagpal vs. State of Haryana, (1994) 27 A.T.C. 537 has held that the object of giving compassionate appointment is to enable the family to get over the financial crisis which it faces at the time of death of the sole bread-earner and that the compassionate employment cannot be claimed and offered whatever be the lapse of time and after the crisis is over. Recently the Hon'ble Supreme Court in the case of Jagdish Prasad (supra) has held that "

"The very object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the

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family by sudden demise of the earning member of the family. Since the death occurred way back in 1971, in which year the appellant was four years old, it cannot be said that he is entitled to be appointed after he attained majority long thereafter. In other words, if that contention is accepted, it amounts to another mode of recruitment of the dependent of a deceased Government servant which cannot be encouraged, de hors the recruitment rules."

The above principle of law laid down by Hon'ble the Supreme Court applies with full force in the instant case also where the father of the applicant died in the year 1976 when the applicant was 10 years old. He having failed to approach the competent authorities within one year of the date of attainment of majority, is not entitled to claim the relief sought for in this original application. Moreover, in the instant case the respondents have considered the case of appointment of the applicant on compassionate grounds at every level i.e. at the level of Divisional Railway Manager as also the General Manager and hence it cannot be said that there has been any fault on part of the respondents in not acceding to the request made by the applicant to seek compassionate appointment. It may also be mentioned that the applicant has not challenged in this OA the orders dated 28.4.92 (Annex.R-2) and 13.5.1990 (Annexure R-3) and have sought quashing of a communication of the Railway Union dated 27.12.1991 (Annex.A-1) which is of no consequence.

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9. For all the aforesaid reasons, I am of the considered view that there is no merit in this OA which is dismissed with no order as to costs.



(RATAN PRAKASH)
MEMBER (J)