

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 24.8.95.

OA 561/94

LAL CHAND MEENA s/o Late Shri Ram Kishore Meena, c/o Shri Fannath Meena, Plot No.352, Phuta Kot, Balanandji ka Rasta, Chandpole, Jaipur.

... APPLICANT.

VERSUS

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Jaipur.

... RESPONDENTS.

CORAM:

HON'BLE MR. O.P. SHAFMA, MEMBER (A)

HON'BLE MR. PATTANI PFAJASH, MEMBER (J)

For the Applicant ... Mr. P.N. Mathur with
Miss Babita Sharma

For the Respondents ... Mr. S.S. Hasan

O R D E R

PER HON'BLE MR. O.P. SHAFMA, MEMBER (A)

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Lal Chand Meena has prayed that the respondents may be directed to grant appointment to the applicant on any appropriate post on compassionate ground. He has further prayed that the circular of the Railway Board, which fixes time limit of five years from the date of the event for grant of such appointments, may be quashed as being ultra-vires of the fundamental rights guaranteed by the Constitution.

2. The applicant's case is that his father, a permanent railway servant, expired while on duty on 7.1.79. The applicant is the only son of his deceased father. The mother of the applicant is an illiterate woman and is not in a position to take up public employment under the Government having regard to the custom in the community. The applicant was only 5 years old at the time of death of his father. Vide Annexure A-3 dated 2.5.80, ~~she~~ ~~when~~ she had asked the authorities to grant appointment to her son, as may be appropriate to his age. Since then she has been requesting the authorities to grant employment to the applicant on compassionate ground. The applicant attained majority in 1990 and his mother submitted an application on 19.12.90 (Ann.A-1). Thereafter, another application dated 3.9.93 was made by the mother of the applicant, to which reply dated 30.9.94 (Ann.A-2) was given. As per this reply, the application has been rejected on the ground that the

matter is very old. The applicant's case is that since the applicant was only five years old at the time of his father's death, he could not take up employment in public service at the time of his father's death. The Railway Board's circular dated 27.12.83 (Ann.A-1), fixing a time limit of five years for grant of compassionate appointment, is illegal and violative of Article 14 of the Constitution. There is further provision for relaxation of the aforesaid time limit of five years in cases where the widow cannot take up employment and the son/daughter of the deceased railway servant is minor. In such cases, the time limit can be relaxed with the approval of the General Manager. Therefore, the applicant's case should have been considered by relaxing the time limit fixed. The applicant has also assailed Annexure A-2 on the ground of discrimination, alleging that in the case mentioned in Annexure A-5 dated 3.2.93 compassionate appointment has been granted to one Shri Jitendra in similar circumstances.

3. The respondents in their reply have stated that the application reported to have been made by the applicant's mother in 1980 for compassionate appointment of her son i.e. the present applicant was never received in the office of the respondents. The application dated 16.6.92 was received by them and was considered but since the application had been moved beyond the period of limitation, i.e. after about 13 years after the death of the railway servant, compassionate appointment was not granted to the applicant. Reply to the said representation dated 16.6.92 was given vide letter dated 13.3.93. They have denied that there was any discrimination against the applicant vis a vis the person mentioned in Annexure A-5 inasmuch as relaxation in time limit was given in that case on the merits of that case. The applicant's challenge to the circular of the Railway Board dated 27.12.83 is misconceived because this circular is reasonable from any point of view and covers all probabilities. The applicant cannot be granted any relief after a lapse of 13 years from the death of his father.

4. During the arguments, the learned counsel for the applicant stated that the applications made by the applicant's mother for grant of compassionate appointment to the applicant had been rejected solely on the ground that the matter has become very old or it was time barred. When there is a specific provision in the circular dated 27.12.83, issued by the Railways Board, that the time limit of five years may be relaxed with the approval of the General Manager in cases in which the widow is unable to take up public employment and the son/daughter is minor, the respondents should have relaxed the time limit for consideration of the applicant's case on merits, because in this case the widow was unable to take up public employment due to illiteracy and custom in her community and the son of the deceased railway servant was

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only five years old at the time of the death of the railway servant. The learned counsel for the respondents stated that the purpose of grant of compassionate appointment is to grant immediate relief to the family of the deceased and since the matter has now become more than 13 years old, there is no case for grant of compassionate appointment. He added that the case has been considered on merits and thereafter rejected.

5. We have heard the learned counsel for the parties and have gone through the records. We dispose of this case at the admission stage at the request of the counsel for the parties.

6. As regards the Railway Board's circular dated 27.12.83, the learned counsel for the applicant did not like to argue on validity thereof. Therefore, we have not taken up the question of validity of this circular. However, nevertheless, this circular provides for relaxation of the time limit for consideration of cases for compassionate appointment where the widow of the deceased railway servant is unable to take up public employment or where the son/daughter of the deceased is minor at the time of the death and hence not in a position to take up employment at that stage. The request for compassionate appointment has been rejected vide Annexure A-2 dated 30.9.94 solely on the ground that the matter is very old. When there is specific provision in the circular for relaxation of the time limit, Annexure A-2 does not show that the question of relaxation of the time limit was considered by the respondents and thereafter the applicant's case was rejected. Therefore, rejection of the applicant's case solely on the ground that the matter is very old, is not proper.

7. In the circumstances of the present case, we direct the respondents to consider the case of the applicant for appointment on compassionate ground on merits, for relaxation of the time limit, as per rules, also having regard to the facts contained in Annexure A-5 dated 3.2.92, by which compassionate appointment was reportedly granted to one Shri Jitendra in the circumstances said to be similar to those of the applicant.

8. The matter shall be considered by the respondents within a period of six months from the date of receipt of a copy of this order.

9. The OA stands disposed of accordingly at the admission stage.


(PATTAN PFAKASH)

MEMBER (J)


(O.P. SHARMA)

MEMBER (A)

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