

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A. No.24/95

Dt. of order: 24.3.1995

Sanjay Sharma

: Applicant

Vs.

Union of India & Anr. : Respondents

PER HON'BLE MR.O.P.SHARMA, MEMBER (ADM.).

Shri Sanjay Sharma has filed this application seeking review and recall of order dated 6.2.'95 passed by the Tribunal in M.A. No.384/94 and O.A.No.253/93 filed by him.

2. The applicant had filed O.A.No.253/93 seeking appointment ~~as~~ ~~the~~ ~~assistant~~ on compassionate grounds as dependant of the deceased railway servant Shri Girdhari Lal R.Sharma, B-grade Driver, W.Rly, Bandikui, who died at the age of 57 on 31.5.'81 after he was prematurely retired from service on medical grounds on 28.2.1977. Since the applicant had ~~been~~ filed the O.A. on 23.4.'93, the respondents in the reply had stated inter alia that the cause of action arose to the applicant on 11.12.'86 (Annex.R1) by which the applicant's mother was informed for the first time that the request for employment of her child on compassionate grounds was rejected. There upon the applicant filed an M.A. No.384/94 for condonation of delay in filing the O.A. The M.A. for condonation of delay and the O.A. were disposed of on 6.2.'95, after hearing the counsel for the parties.

3. In the Review Application, the applicant ^{has} stated that the M.A and the O.A. were dismissed by the Tribunal solely on the ground of delay. The applicant's father after premature retirement had requested the authorities vide Annex.A1 dated 8.3.'77 of the O.A. that his elder son may be provided with suitable appointment. The mother of the applicant had submitted a detailed representation in 1992, Annex.A7 of the O.A, stating that her ^{elder} son is studying in the B.Ed. and therefore, relaxation may be allowed in favour of her next son, Shri Sanjay Sharma, for appointment on compassionate grounds. His claim is that the representation Annex.A7 is still pending with the authorities and it has to be examined on merit. The O.A. which has been filed on 23.4.'93 is in fact within time. He has cited the Railway Board's letters of January 1984 in para

6 of the Review application, to plead that cases of appointment on compassionate grounds should be viewed sympathetically, cases more than 5 years may be referred to the Board if circumstances warrant consideration and that in case of a railway servant who is medically incapacitated or declassified and retired from service and if compassionate appointment is otherwise permissible, such appointments may be offered to the wife of the railway servant subject to certain conditions such as that the employee has no son or daughter or ^{the} son or daughter is minor at the time of request for appointment. The applicant has further stated in the Review Application that after the death of the applicant's father, the applicant and his elder brother were minor and the mother of the applicant was not keeping good health. Therefore, she could not pursue the matter properly at the relevant time. According to the applicant, the facts narrated in the O.A. were not considered while dealing with the M.A. for condonation of delay. He has accordingly prayed that the order dated 6.2.'95 may be recalled and the O.A. and the M.A. be heard again on merits.

Tribunal's

4. In the order dated 6.2.95, it was stated inter alia that the father of the applicant was prematurely retired on 28.2.'77 and he expired on 31.5.'81. It was further stated in the order dated 6.2.95 that in the O.A. it had been stated that the eldest son of the deceased was just 15 years and the younger son i.e. the present applicant was 9 years of age. It was added in the Tribunal's order that if that was the position, the elder son of the deceased would have been more than 18 years of age at the time when the applicant's father expired. During the arguments a new claim that in fact the eldest son of the applicant was not 15 years of age but was younger, was made but was rejected. In the Tribunal's order, it was held that if the applicant's elder brother became major some time around his father's death in 1981 and if the application for appointment of the younger son i.e. the present applicant on compassionate grounds was made in 1986, it was belated. It was accordingly rejected.

5. The respondents had denied in their reply to the O.A. that the deceased railway employee had made any application during his life time, for employment of his son/ward for appointment on ..3.

compassionate grounds. As per the averments in the O.A., the elder son of the deceased would have been 18 years or more at the time of the death of the deceased, being 15 years of age in 1977. Thus, when the applicant's elder brother was already 18 years of age or more at or around the time of death of the deceased railway employee, any claim for compassionate appointment by filing an O.A. during April 1993 would certainly be time barred. All the facts and arguments contained in the O.A. as also those advanced during the arguments by the learned counsel for the applicant were duly considered, but it was not considered necessary to reproduce every fact and argument in the order of the Tribunal and only the most material of the facts namely that the applicant's elder brother would have been major by 1981 and still no claim for appointment on compassionate grounds was made at that time, and it was made only in 1986 was mentioned in the Tribunal's order. If the representation Annx.A7 made in 1992 is still pending with the respondents, they are not precluded from disposing it of on merits. However, there is no material in the review application which justifies review of the order of the Tribunal in terms of the provisions of Order XLVII Rule 1 of the Code of Civil Procedure. The Review application is, therefore, rejected in limine.


(O.P.Sharma)
Member (A).