

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

16.12.2014

OA No. 291/00685/2014 with MA 291/00466/2014

Mr. Vinod Goyal, Counsel for applicant.

Heard the learned counsel for the applicant.

The OA is disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

Abdul

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.**ORIGINAL APPLICATION No. 291/00685/2014**
With
MISC. APPLICATION NO. 291/00466/2014**DATE OF ORDER : 16.12.2014****CORAM :****HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER**

Manmohan son of Late Shri Fabulya, aged about 30 years, by caste Bairwa, resident of Ward No. 19, Sanjay Colony, Near Railway Station, Gangapurcity, Sawaimadhopur (Rajasthan).

... Applicant

(By Advocate: Mr. Vinod Goyal)

Versus

1. Union of India through General Manager, West Central Railway, Jabalpur, M.P.
2. The Divisional Railway Manager, Kota.

... Respondents

(By Advocate: -----)

ORDER**PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

The applicant has filed this OA praying for the following reliefs:-

"(i) By an appropriate order or direction, the respondent be directed to consider the case of the applicant for being given appointment on compassionate ground or in any Group- D post in the interest of justice and keeping in view the poor financial condition of the family.

(ii) Any other order which appears to be just and correct in the interest of justice may also be passed."

2. The brief facts of the case, as stated by the learned counsel for the applicant, are that the father of the applicant

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was holding the post of Electric Fitter Grade III who died on 23.12.1984 while in service. That the wife of the deceased submitted an application for appointment on compassionate grounds in the year 1990 but she was not given appointment. The age of the applicant at the time of death of his father was six months. The applicant also submitted the application/representation for giving him appointment on compassionate grounds but the same has been rejected without assigning any reason. The financial condition of the family is in penury having no source of income.

3. The learned counsel for the applicant has also filed an application for condonation of delay in filing the OA. In this application, it is stated that the applicant on attaining the age of majority submitted the application for appointment, which was not considered by the respondents in view of the financial condition of the family. The request of the applicant was rejected by a non speaking letter dated 12.01.2010 (Annexure A/7). The applicant thereafter submitted the representation for reconsideration of the matter, which was not appreciated by the Railway Authorities without assigning any reason.

4. That the applicant is the only son and, therefore, he has to look after his mother. The Scheme of appointment on compassionate grounds is a beneficial legislation which should be taken into consideration leniently. The delay in filing the OA is not inordinate delay and the applicant has a strong case on

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its merit. Therefore, the delay may be condoned in the interest of justice.

5. Heard the learned counsel for the applicant. The father of the applicant died on 23.12.1984 i.e. 30 years ago. The mother of the applicant filed the application for appointment on compassionate grounds on 12.01.1990 i.e. almost five years after death of her husband and thereafter there is another application of wife of the deceased dated 04.02.2009 for giving appointment on compassionate grounds to her son. The date of birth of the applicant is 13.06.1984. Thus he attained his majority on 13.06.2002. According to the Circular of the official respondents, the applicant could have applied within two years on attaining the majority that is he could have applied to the respondents upto 13.06.2004 but the applicant did not apply within the prescribed time limit. But no reasons have been assigned why neither the mother of the applicant nor the applicant himself could apply for appointment on compassionate grounds within the prescribed time limit. I am not convinced by the reasons given in the MA for condonation of delay in filing the OA.

6. The Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal vs. State of Haryana**, JT 1994 (3) SC 525, in Para No. 6 has held that:-

"The compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the

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financial crisis which it facts at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

Similarly the Hon'ble Supreme Court in the case of **Haryana SEB vs. Krishna Devi**, 2002 (1) SCC 246, has observed that:-

"As the application for employment of her son on compassionate ground was made by the respondent after eight years of death of her husband, we are of the opinion that it was not to meet the immediate financial need of the family. The High Court did not consider the position of law and allowed the writ petition relying on the earlier decision of the High Court."

7. That law is well settled by the Hon'ble Supreme Court that compassionate employment cannot be claimed and offered after a reasonable lapse of time and after the crisis is over. In the present OA, the father of the deceased died 30 years ago. Hence, I do not find any reason to condone the delay. Therefore the MA for condonation of delay as well as OA are dismissed on the ground of limitation alone.

8. Since the OA and MA are dismissed at the admission stage itself without issuing notices to the respondents, the Registry is directed to send a copy of this order to the official respondents.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

abdul