

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/00050/2015

Date of Order: 16.1.2015

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Prince Sharma S/o Shri Ashok Kumar, Resident of Dadwada
Choraha, Kota Junction, Kota (Raj.)

.....Applicant

(By Advocate Mr. Mukesh Sharma)

VERSUS

1.The Union of India through the General Manager, West
Central Railway, Jabalpur.

2.The Divisional Railway Manager, West Central
Railway, Kota.

.....Respondents

ORDER

(Per Hon'ble Mr. Anil Kumar, Administrative Member)

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

8.(i) That the respondents may be directed to grant the
benefit of compassionate appointment to the applicant.

(ii) That the respondents may be directed to release all the
benefits of the deceased Ashok Kumar in favour of the
applicant. The monetary benefits may be released alongwith
interest of 12% P.A. till date.

(iii) Any other appropriate order or a direction which is
deemed just and proper by this Hon'ble Tribunal may also be
passed in favour of the applicant;

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(iv) The Original Application may kindly be allowed through out with costs.

2. Heard the learned counsel for the applicant. The brief facts of the case as stated by the learned counsel for the applicant are that the uncle of the applicant Shri Ashok Kumar S/o Shri Mohan Lal was working with the respondents Railways at Kota as a Porter. That Shri Ashok Kumar was appointed in the year 1972 on a permanent basis and after 1983 while going for the duties he disappeared and could not found alive or dead.

3. That Shri Ashok Kumar was declared dead vide decree of the competent court dated 5.5.2011(Ann.A/1). Thereafter the applicant submitted a representation to the department for seeking compassionate appointment and all the pending dues of the deceased as he was his legal heir dependent on the deceased at the time of his death. Photo copy of the representation dated 23.5.2011 and 8.4.2014 has annexed as Annexure A/3 and Annexure A/4 respectively. That the applicant also served a legal notice for demand of justice through his advocate on 31.5.2014(Ann.A/5). However, the same has not been replied by the respondents.

4. I have perused the representation dated 23.5.2011 (Ann.A/3) stated to have been filed by the applicant but actually it has not been filed by the applicant. It is filed by the father of the applicant and the brother of

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Shri Ashok Kumar. The Ld. Counsel for the applicant agreed that the applicant Shri Prince Sharma should himself have moved an application for appointment on compassionate ground. Even in the representation dated 23.5.2011, neither the date of birth of Shri Prince Sharma nor his educational qualifications have been mentioned. Even in the representation dated 8.4.2014 the date of birth of the applicant and the educational qualifications have not been given. Moreover, as per the pleadings in the OA Shri Ashok Kumar was unmarried. It is stated that Shri Ashok Kumar has disappeared since 1983. The applicant was not even born at that time. Compassionate appointment is given to mitigate the financial crisis of the family of the deceased employee. In the present OA the applicant has been brought up by his father and he was actually not dependent on Shri Ashok Kumar because he was not born in 1983. It is stated in the pleadings that Shri Ashok Kumar disappeared/lost since 1983 i.e. about 32 years ago. Therefore, now after 32 years the applicant is praying for compassionate appointment which is not permissible under law. The Hon'ble Supreme Court in the case of Umesh Kumar Nagpal Vs. State of Haryana [JT 1994 (3) SC 525] has held:-

"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 financial crisis which it

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faces 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."

Therefore, under these circumstances, no direction can be issued to the official respondents to consider the case of the applicant for appointment on compassionate grounds.

5. The learned counsel for the applicant argued that the competent court of law has declared the applicant as the legal heir of Shri Ashok Kumar, therefore, he is entitled to the financial benefits like Provident Fund and Gratuity admissible to Shri Ashok Kumar. The respondents are directed to consider and decide the legal notice dated 31.5.2014 of the applicant with regard to the payment of financial dues, if any, of Shri Ashok Kumar to the applicant according to the provisions of law by a reasoned and speaking order within a period of three months from the date of receipt of copy of this order.

6. The Learned counsel for the applicant is directed to submit a copy of Paper Book of the present OA to the respondents along with copy of this order.

7. With these observations and directions the OA is disposed of at the admission stage itself with no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Adm/