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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 18.11.97

OA 260/96

Arthur Hamilton son of Late Shri A.C.Hamilton, r/o Christianganj, Indra Colony,
Kailash Puro Road, Ajmer.

... Applicant

Versus

1. Union of India through the Chairman, Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager, Western Railway, Churchgate, Bombay.
3. Financial Advisor & Chief Accounts Officer, Western Railway, Churchgate, Bombay.
4. Deputy Chief Accounts Officer (Traffic Accounts), Western Railway, Ajmer.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

For the Applicant

... Mr.W.Wales

For the Respondents

... Mr.U.D.Sharma

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Arthur Hamilton, in this application under Section 19 of the Administrative Tribunals Act, 1985, has prayed that;

"this Hon'ble Tribunal may be pleased to:-

Issue suitable directions to the Chairman, Railway Board, Ministry of Railways (Respondent No.1) to sympathetically consider the request/ application made by the applicant and his widow mother as well, for compassionate appointment of the applicant after looking into all the relevant aspect including the financial condition of the family that existed on 6.4.1973 or as on 21.9.1986 the date the applicant had become major and well educated with reference to the instructions recently issued dated 6.10.1995, as a Special case."

2. Heard the learned counsel for the parties. The records of the case have been carefully perused.

3. It is stated by the applicant that his father, Shri A.C.Hamilton, who was appointed in the office of the Deputy Chief Accounts Officer (Traffic Accounts), Western Railway, Ajmer, on 19.6.1961 as a Junior Clerk Grade-II, had unfortunately expired on 6.4.1973 while in service. Applicant's mother was then aged 38 years. His sisters Renu, Rita and his younger brother Ajeet were

also minors. The applicant was also a minor and he was aged about 4½ years when his father had expired. At the time of the death of the father, the applicant's mother, who was employed as a Mid-Wife in the Rajasthan Government, was the only earning member of the family. On the death of the father, only a sum of Rs. 12000/- towards retirement benefits was received by the mother of the applicant. The family was maintained somehow by the applicant's mother and his Aunt. The applicant passed the Matriculation Examination in the year 1984 but at that point of time he was a minor and as such was not eligible for any job. The applicant attained majority on 21.9.86. Thereafter his mother made a representation dated 29.12.86 to the Deputy Chief Accounts Officer (Traffic Accounts), Ajmer, respondent No.4, alongwith the applicant's request for compassionate appointment vide Ann.A-2. The contention of the applicant is that the condition of the family being indigent, he is entitled to an appointment on compassionate grounds and denial of this concession to him is arbitrary. It is also stated by the applicant that his case has been dealt with in a casual manner and his request should not have been rejected on the ground of belatedness.

4. On the contrary, the respondents have stated that the present application is barred by limitation. It is further stated that the case of the applicant for appointment on compassionate grounds was duly and properly considered by respondent No.3 and his decision rejecting the claim of the applicant and also for not referring it to the Railway Board for relaxation of 10 years limit for considering employment on compassionate grounds was intimated to the mother of the applicant vide letter dated 21.4.87, at Ann.A-5. It is further stated by the respondents that the mother of the applicant was employed in the Rajasthan Government as a Mid-Wife and that the applicant has deliberately concealed the actual salary which was being received by his mother as a Mid-Wife. It is also stated that in addition to the death-cum-retirement benefits to the tune of Rs.12000/- received by the family, the applicant's mother also received family pension Rs.148/- p.m. The respondents have contended that the very fact that the applicant and his brother and sisters could manage to acquire education upto the level of Matriculation and above shows that the family was not in indigent circumstances. On receipt of the clarification sought from the applicant, his case was considered by the competent authority and since the material furnished by the mother of the applicant was not found convincing enough for referring the case of the applicant to the Railway Board for relaxation of over 10 years limit for considering employment on compassionate grounds, no appointment on compassionate basis could be offered to the applicant. The father of the applicant was working as a Junior Clerk in the Railways and the mother of the applicant was working as a Mid-wife under the Rajasthan Government and thus the emoluments received by the parents of the applicant were sufficient at that relevant time to maintain a family.

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5. The applicant's mother and the applicant himself made representations dated 29.12.86 requesting for grant of compassionate appointment to the concerned authority whereupon clarifications were sought from them vide communication dated 27.2.87, at Ann.A-3. Since the reasons furnished by the applicant's mother were not found convincing enough, the case of the applicant for grant of appointment on compassionate basis was not referred to the Railway Board vide Ann.A-5 dated 21.4.87. The applicant's mother made another representation vide Ann.A-6 dated 25.6.91 which was replied by Ann.A-7 dated 9.9.91 in which it has been stated that "the decision conveyed vide this office letter No. even dated 21.4.87 stands good". Thereafter, the applicant made a representation on 9.11.92 vide Ann.A-8 to the concerned authority and his mother made a representation vide Ann.A-9 dated 23.11.95. Another representation was made by the applicant's mother vide Ann.A-10 dated 14.12.95. With reference to the applicant's representation dated 9.11.92 the respondents did not consider it proper to open the case at this stage vide communication dated 26.7.94, at Ann.R-1. The request of the applicant for appointment on compassionate considerations had already been rejected vide letters dated 21.4.87 (Ann.A-5), 9.9.91 (Ann.A-7) and 26.7.94 (Ann.R-1). These communications are not under challenge. In fact the cause of action had accrued to the applicant on 21.4.87. The present application was filed on 16.4.96. Repeated unsuccessful representations do not extend limitation. The application is, therefore, hopelessly barred by limitation. Moreover, the fact remains that the applicant's father had expired on 6.4.1973 when the cost of living was not very high and on the death of the applicant's father, his mother had received retiral benefits to the tune of Rs.12000/-. She was also receiving a monthly pension of Rs.148/- and besides that she was also getting emoluments while working as a Mid-Wife under the Rajasthan Government. It cannot, therefore, be said that the family was in indigent circumstances. I am of the view that the applicant's case for grant of appointment on compassionate grounds was rightly rejected by the respondents. Reliance is placed on JT 1994 (3) 30 525, Umesh Kumar Nagpal v. State of Haryana & Ors., wherein it was laid down by their Lordships of Hon'ble the Supreme Court, as follows :-

"6. For these very reasons, 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 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."

6. For the reasons stated above, this application is dismissed. No order as costs.

GK
(GOPAL KRISHNA)
VICE CHAIRMAN