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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.139/97

Date of order: 5.5.99

Jamuna Das, Adopted Son of Late Smt.Kanchan Bai, aged about 29 years, R/o Pawan Readymade Store, infront of Maharaniji ki Dharamshala, Kota Jn, Kota - 324 002.

...Applicant.

Vs.

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, DRM Office, Kota.

...Respondents.

Mr.C.R.Premi - Counsel for applicant

Mr.U.D.Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr.Ratan Prakash, Judicial Member.

PER HON'BLE MR.RATAN PRAKASH, JUDICIAL MEMBER.

Applicant Jamuna Das has filed this application under Sec. 19 of the Administrative Tribunals Act, 1985, seeking a direction against the respondents' department to give him compassionate appointment as per his qualification.

2. The applicant is claiming appointment on compassionate ground on the plea that he was adopted by Smt.Kanchan Bai, the deceased employee on 15.1.1982 as per registered Adoption Deed as at Anxx.A1. The deceased employee died on 20.1.91, during her service and before retirement. It is also claimed by the applicant that he was issued a Succession Certificate by the competent Court on 10.12.96 (Anxx.A7) and that the settlement dues of the deceased adopted mother as admissible were paid to the him. He moved the respondents' department for appointment on compassionate ground but his request was turned down by the respondents vide their letter dated 8.12.1995 (Anxx.A9). Hence on being aggrieved, he approached this Tribunal for the aforesaid relief.

3. The respondents opposed this application by filing a written reply to which the applicant has also filed rejoinder. The stand of the respondents has been that the applicant suppressed the facts since his request to seek compassionate appointment made by him to respondent No.2 on 18.2.91 has been rejected as early as on 3.4.91 vide Annxs.R1 & R2. His further request made on 8.7.94 has also been turned down vide the respondents' letter dated 5.9.95 (Anxx.R3). His another application to seek



compassionate appointment moved by the applicant on 19.9.95 was also turned down vide respondents' letter dated 8.12.95 (Annex.A9). It has therefore been urged that the applicant has suppressed the true fact and has not challenged the earlier orders dated 3.4.91 and 5.9.95 rejecting his claim to seek compassionate appointment.

4. On merit also it has been urged that the deceased employee's family cannot be said to be in indigent circumstances and that his claim has been rightly rejected by the respondents' department more so when the applicant has been paid an amount of Rs.93,750/- on the basis of Succession Certificate granted to him by the competent Court. It has, therefore, been insisted by the respondents that the application deserves rejection.

5. I heard the learned counsel for the parties and have examined the record in great detail.

6. On a perusal of the documents filed by the applicant and the respondents, it is clear that the applicant has not approached the Tribunal with clean hands. He has suppressed the facts that his earlier applications to seek compassionate appointment moved on 18.2.91 and 8.7.94 were rejected by the respondents' department on 3.4.91 and 5.9.95 respectively. Further, while rejecting the claim made by the applicant, the respondents in their communication dated 8.12.95 (Annex.A9) have turned down the claim intimating the applicant that his age was 18 years at the time of his adoption and that the settlement dues paid to him on the death of the deceased adopted mother, the Railway employee, has been sufficient to maintain himself as he was unmarried at that time and that he had no other responsibilities.

7. On the contrary, the argument of the learned counsel for the applicant has been that the applicant is of a Scheduled Caste category and that he has no source of income and that it is very difficult for him to maintain himself and his family members.

8. I have given due thought and consideration to the arguments addressed by both the parties.

9. Since the applicant has not been able to deny that his requests to seek compassionate appointment were rejected as early as on 3.4.91 followed by another rejection on 8.7.94. The third rejection by the respondents' department communicated to him vide

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order dated 8.12.95 (Annex.A9) does not entitle the applicant to claim the relief of compassionate appointment. The deceased Railway employee, the adopted mother of the applicant, is said to have died on 20.1.91 and his claim to seek compassionate appointment was rejected as early as 3.4.91. The applicant should have approached the Tribunal within one year from the date of rejection of his request to seek compassionate appointment. He has not done so. Further, he has not approached this Tribunal even after his request was disallowed ~~in~~ the second time in the year 1994. Not only this, even after his third application to seek compassionate appointment made on 19.9.95 (Annex.A8) was rejected by the respondents vide their letter dated 8.12.95 (Annex.A9); the applicant has not approached the Tribunal within one year from the date of communication of the latest order dated 8.12.95. The applicant has filed this O.A on 12.3.97 i.e. much beyond the cause of action arose to the applicant. It is ~~the~~ settled law that ~~the~~ repeated representation ~~does~~ not extend the period of limitation. Further, in the present case, the applicant has been paid a substantial amount, more than Rs.93,750/- in the year 1992 or 1993 after the death of the deceased employee, the adopted mother. It ~~is~~, therefore, cannot be said that the applicant has been in indigent circumstances when the applicant has been pulling on after the year 1992-93 till now, i.e. the date of filing of the O.A.

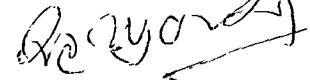
10. Even Hon'ble the Supreme Court has held in the case of Umesh Kumar Nagpal Vs. State of Haryana & Ors, JT 1994(3) SC 525 that compassionate appointment cannot be granted after lapse of a reasonable period and that it is not a vested right which can be exercised at any time in future. It has also been held by Hon'ble the Supreme Court in this case that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.

11. In the instant case not only the application filed by the applicant is beyond ~~the~~ limitation and highly belated but on merits also it cannot be said that the applicant has ever been in financial destitution.

12. For all the aforesaid reasons, I do not find any illegality or irregularity in the orders issued by the respondents' department in their communications dated 3.4.91 (Annex.R2), dated 5.9.95 (Annex.R3) and dated 8.12.95 (Annex.A9).



There being thus no merit in this O.A. It is dismissed at the stage of admission with no order as to costs.



(Ratan Prakash)
Judicial Member.