

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.349/98

DATE of order
27.1.2000

Hari Prasad, S/o Late Shri Bheru Lal, R/o Village Nagar,
Heda, Tehsil Bemaniyavas, Distt. Sawaimadhopur, (Raj).

...Applicant.

Vs.

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

...Respondents.

Mr. Shiv Kumar - Counsel for the applicant

Mr. R.G. Gupta - Counsel for respondents.

CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member

PER HON'BLE MR. S.K. AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes prayer to quash and set aside the order dated 21.8.95 as illegal and arbitrary. By the impugned order dated 21.8.95, the application filed by the applicant was rejected on the ground that his father died after retirement, therefore, he is not entitled to appointment on compassionate ground.

2. The case of the applicant is that the father of the applicant was retired from service in the year 1964 and the applicant was born on 5.1.69. The father of the applicant died on 5.10.84. The condition of the applicant is extremely indigent and he is 8th class passed, therefore, he is entitled to appointment on compassionate ground. The applicant filed O.A No.544/93 before this Bench, the said O.A was decided on 12.4.94. In pursuance of the Tribunal's order, the applicant made representation on 17.2.96 but with no result. It is stated that the denial of appointment of the applicant on compassionate ground is ex facie illegal, arbitrary and unreasonable, therefore, by this O.A, the applicant prayed for the aforesaid relief.

3. Reply was filed. In the reply, it has been categorically stated that the applicant was born after retirement of his father and he has requested the respondents for appointment on compassionate ground after death of his father. Therefore, according to the rules, the applicant is not entitled to any relief sought for.

4. It is not disputed that the father of the applicant retired from the post of BTM Fitter in the year 1964 and the applicant born on 5.1.69. The father of the applicant expired on 5.10.84. It is also clear that the applicant has filed this O.A in

1988 to quash and set aside the impugned order dated 21.8.95.

5. On a perusal of the whole case file, I am of the considered view that the applicant is not entitled to be considered for appointment on compassionate ground as father of the applicant retired from the service and he died after 20 years of his retirement. Secondly this application appears to be grossly barred by limitation. The learned counsel for the respondents has referred Dhalla Ram Vs. UOI & Ors, JT 1998(9) SC 502 and argued that the O.A filed by the applicant is hopelessly barred by limitation.

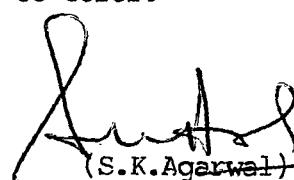
6. In Jagdish Prasad Vs. State of Bihar (1996) 1 SCC 301, Hon'ble Supreme Court has observed that "the very object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family". The Hon'ble Supreme Court also pointed out that if the claim of the dependent which was preferred long after the death of deceased employee is to be countenanced it would amount to another mode of recruitment of the dependent of the deceased government servant which cannot be encouraged, dehors the recruitment rules."

7. The Supreme Court in the judgment reported in (1998) 5 SCC 192, in the case of Director of Education and Anr. held:

The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the bread earner which has left the family in pecury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is proved, the family would not be able to make both ends meet, a provision is made for giving gainful appointment to one of the dependents of the deceased who may be eligible for such appointment.

8. In the instant case, the deceased employee died in the year 1984 and he was retired from service in the year 1964, after his retirement the applicant was born on 5.1.69 and filed this O.A for seeking relief in the year 98. In view of the facts and circumstances of the case, I am of the view that the O.A filed by the applicant is not sustainable in law, on merit, it is also hopelessly barred by limitation. Therefore, this O.A is devoid of any merit.

9. In view of the foregoing discussions as above, this O.A is dismissed having no merits. No order as to costs.


 (S.K. Agarwal)
 Member (J.) 27/1/2000

(S.K. Agarwal)