

100

2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 262/04.....

R.A/C.P No.....

E.P/M.A No. 66/2005.....

1. Orders Sheet. OA/262/2005.....Pg. 1.....to..... 1..... *MP-66/05* *order-pg 1 to 4 Disposed 14/03/05*
2. Judgment/Order dtd. 14/03/2005.....Pg. 1.....to..... 4..... *Disposed*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 262/04.....Pg. 1.....to..... 14.....
5. E.P/M.P. 66/2005.....Pg. 1.....to..... 2.....
6. R.A/C.P.....Pg.....to.....
7. W.S. *submitted by the respondent*.....Pg. 1.....to..... 6.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

267/2004

Org. App/Misc. Petn/Cont. Petn/Rev. Appl.

In O.A. _____

Name of the Applicant(s) Dr. A-Das

Name of the Respondent(s) U.O. 1203

Advocate for the Applicant Md. M. Uddin Mahomed, N.K. Das (M.A.)

Counsel for the Railway/C.G.S.C. N.F.-Rly.

OFFICE NOTE DATE ORDER OF THE TRIBUNAL

This application is in form
is filed/C.F. Form No. 10-
deposited vide P. BD
No. 209/114771
Dated 4/10/04

[Signature]
By. Registrar

NO 8075

[Signature]
10/10/04

23.11.2004

Heard Md. M.U. Mahmad, learned
counsel for the applicant and Dr. M.C.
Sarma, learned counsel for the respond-
ents.

Issue notice to show cause as to
why the application shall not be admitt-
ed.

List on 14.1.2005 for admission.

[Signature]
Member (A)

mb

28.1.2005

Six weeks time is given to the
respondents to file written statement.

List on 14.3.2005 for admission.

[Signature]
Member (A)

14.3.05.

Judgment delivered in open Court.
Kept in separate sheets. Application
is disposed of.

Member Vice-Chairman

Notice & order
sent to D/Section
for issuing to
resp. Nos. 1 to 9, by
regd. A/D post.

[Signature]
29/12/04

S/n. Gwa. Thru

NO N/S has been filed

[Signature]
11/3/05

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~R.A.No.~~ No. 262 of 2005.

DATE OF DECISION 14.3.2005.

Mr. Arabinda Das APPLICANT(S)

Mr. M. Uddin Mahmud ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India & Ors. RESPONDENT(S)

Dr. M. C. Sharma, Rly. counsel ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE-CHAIRMAN.

THE HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the judgment is to be circulated to the other benches ?
- Judgment delivered by Hon'ble VICE-CHAIRMAN

[Handwritten signature]
1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.262 of 2004 & M.P.No.66/05

Date of Order: This, the 14th Day of March, 2005.

HON'BLE MR. JUSTICE G. SIVARAJAN, VICE-CHAIRMAN

HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Arabinda Das,
Son of Late Sarat Chandra Das,
Village Patiladaha (Baruah Para),
P.O.Patiladaha, Dist. Bongaigaon, Assam.

...Applicant

By Advocates Mr. M. Uddin Mahmud, Mr N.K.Debnath

-Versus-

1. Union of India,
Represented by the Chairman,
Railway Board, Rail Bhawan, New Delhi-1.
2. The General Manager, (P), N.F. Railway, Maligaon,
Guwahati-11.
3. The Deputy Chief Engineer/Br./Line,
N.F. Railway, Maligaon, Guwahati-11.
4. The XEN/EWS, N. F. Railway,
Bongaigaon, Assam.

... Respondents.

By Advocate Dr. M.C. Sarma, Railway counsel.

ORDER.(ORAL)

G.SIVARAJAN. J (V.C.):

The applicant Shri Arabinda Das is the son of late Sarat Chandra Das, who was working as Watchman under the Respondents. The said Sarat Chandra Das died on 8.8.1976 while in service. The applicant who is the eldest son of the deceased was minor and as such his widow mother submitted representation for her appointment on compassionate ground under the Die-in- harness Scheme of the Railway. Since the said representation was not considered in her favour she made application for

ma

appointment to her minor son under the said scheme. That application was rejected stating that the minor son cannot be appointed till he attains majority. The son made an application on 6.1.01 after attaining majority before the said respondents. The said application has not been disposed of. The applicant earlier approached the Hon'ble High Court by filing Writ Petition No.2828/04 and later he withdrew the said application on 30.1.04 with liberty to approach this Tribunal. Thereafter the applicant filed the present application seeking for appointment on compassionate ground in Grade IV post in any department under the Railway Administration with reference to his qualification. The applicant has also sought for interim direction to the Respondents to keep one post of Grade IV vacant in any department under the Railway Administration. Respondents have filed their written statement on 7.3.05. It is stated therein that the applicant's mother who is the widow of late Sarat Chandra Das submitted application for appointment on compassionate ground after five years, 11 months and 15 days after the expiry of the employee and that as per extant instructions issued by the Railway Board application for compassionate appointment will be only ^{for her} within five years after expiry of the employee. Since the applicant's mother made this application beyond the period of five years, the application could not be entertained. Regarding the application dated 21.7.97 submitted on behalf of the minor who is the elder son of the deceased it is stated that appointment on compassionate ground could not be made, as he was still a minor as per records submitted. It is stated that the said son continued to be minor at the relevant time and that after completion of 18 years he did not apply for appointment on compassionate ground. Hence his case for appointment on compassionate ground could not be processed. It is further stated that the contentions of the applicant that his application for appointment on compassionate ground was not made by the Respondents on the basis of his mother's application dated 6.1.2001, that as per clarification issued by the Railway Board Vide their letter No. E(NG)II-84/RCI/26 dated 18.4.1985 application

gpc

for appointment on compassionate ground can be considered for minors attaining majority only in cases less than ten years old as reckoned from the date of death. It is also stated that since the present application is made after 24 years of the death of the employee the application was patently time barred and hence could not be considered.


2. We have heard Mr. N.K. Debnath learned counsel for the applicant and Dr.M.C. Sharma, learned counsel for the Railway who made submissions on the basis of their respective pleading. Admittedly the applicant's mother made the application beyond the period of five years. As per extant rules issued by the Railway Board only application submitted within the period of five years can be considered. Since the widow of the applicant had submitted the application only after five years, 11 months and 15 days, which is beyond the period of five years the application was not considered. However, we find that this fact was not intimated by the respondents by any written communication. It is the further case of the respondents that the widow of deceased employee submitted an application on 21.7.1987 for giving appointment under the Scheme to the elder son of the deceased employee but he could not be appointed as he was a minor as per records and that he did not turn up for appointment after attaining majority. From this statement made in para 5.2 of the written statement it is seen that the applicant's application was not considered only because of ^{she} he continued to be a minor and since he did not turn up after attaining majority. After attaining ^{she} the majority the applicant has chosen to make representation, which is subject matter of present application only on 6.1.01. Now the stand of the respondents is that this application cannot be considered because even on the admission of the applicant it was made more than 24 years after the death of the employee. It would appear from the averments in the written statement that the application for appointment on compassionate ground in the case of minor attaining the majority can be considered only if the application is made within 10 years from the date of death of the employee. The widow or other members of the family did not

apply for compassionate appointment within the time provided therefor in the Rules to enable the respondents to render necessary assistance in the matter. Further if rules prescribed a period of limitation for making the application and if the application is not made within the said period certainly the Respondents cannot be faulted for rejecting the application. Hence no positive direction can be issued to the respondents to give employment to the applicant on compassionate ground under the die-in-harness scheme of the Railways.

3. However, from the averments made in para 5(2) of the written statement of the respondents it would appear that they have taken the stand that if the applicant immediately on attaining majority had approached the Railway something could have been done. Further the deceased was only a watchman; his widow may be illiterate and were not aware of the benefits available under the die-in-harness scheme of the Railways. Further, his children were only minors for a quite long time. In the circumstances in view of the fact that an application was made on behalf of the minor son in 1987 the Railways could have considered the said application immediately on the minor attaining majority as per records available with the Railways.

In view of all these circumstances, the respondents will do well if they consider the application dated 6.1.2001 submitted by the applicant in a sympathetic way and do the needful, if necessary, as a special case after obtaining orders in that regard from the competent authority. A decision in that regard must be taken within two months from the date of receipt of the order by the respondents.

The application is disposed of with the above observations.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G. SIVARAJAN)
VICE-CHAIRMAN

Filed by
Sri Arabinda Das
(Sri Arabinda Das)
Througgh
M. U. Mahmud
Advocate.
10-11-04

IN THE
Central Administrative Tribunal
10 NOV 2004
গুৱাহাটী কেন্দ্রীয়
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORIGINAL APPLICATION NO. 262 /04.

Sri Arabinda Das

... Applicant.

-VS-

General Manager,
N.F. Rly, Maligaon and ors,

... Respondents.

LIST OF DATES/ SYNOPSIS.

Sl.No.	Date	Particulars
1.	8.8.76.	Sarat Chandra Das was died (father of applicant) who was working as Watchman under KEGN/EWS/ENGN of N.F. Railways during the course of his service.
2.		The applicant read up to Class X and belongs to NOBC. (Annexure - B and C)
3.		At the time of death of his father, the applicant was minor, so such his mother submitted several representations before the Respondents/Authority to appoint her on compassionate ground.
4.	6.1.01	Submitted another representation by his mother before Respondent No. 3 with a prayer to appoint her son (Applicant), but with no effect till date. (Annexure- D).
5.	22.4.04	The applicant filed writ petition being W.P.(C) NO. 2828/2004 on 22.4.04 before the Hon'ble Gauhati High Court seeking relief.
6.	31.8.04.	The Writ petition was withdrawn with liberty to approach this Tribunal. (ANNEXURE - A).

Filed by :- *N.K. Das*
(Sri N.K. Das Nally)
ADVOCATE
10/11/04

Filed by:-
MAGISTRATE TIX

(Sri Anubinda
Das)

through

[Signature]
(Sri K. Das Naha)

Admission
Dt. 10.11.04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI, BENCH
AT GUWAHATI; ASSAM.

O.A. NO. 262 OF 2004.

Shri Arabinda Das,
son of Late Sarat Chandra Das,
Village Patiladaha (Baruah Para),
P.O. Patiladaha, Dist. Bongaigaon,
Assam.

... APPLICANT .

-VERSUS-

1. The Union of India,
represented by the Chairman,
Railway Board, Rail Bhawan,
New Delhi- 1.
2. The General Manager (P),
N.F. Railway, Maligaon,
Guwahati- 11.
3. The Deputy Chief Engineer/Br./Line,
N.F. Railway, Maligaon, Guwahati-11.
4. The XEN/ EWS., N.F. Railway,
Bongaigaon, Assam.

... RESPONDENTS .

contd....

1. PARTICULARS OF THE ORDERS :

The applicant filed a writ petition before the Hon'ble Gauhati High Court being W.P.(C) No. 2828/2004, praying for appointment on compassionate ground which was withdrawn on 31.8.04 with liberty to move petition before this Hon'ble Central Administrative Tribunal.

Copy of the Order dated 31.8.04 is annexed as Annexure - A.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declare that the relief sought for is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant further declaring that as the applicant was pursuing for appointment on compassionate ground before Railway authorities since 1976 and thereafter before the Hon'ble Gauhati High Court, vide W.P.(C) NO. 2828/04, there has been delay in the matter of approaching this Hon'ble Tribunal. The Hon'ble Gauhati High Court, allowed the applicant to withdraw the said writ petition with liberty to move his grievances/case before the Hon'ble Tribunal, by its order dated 31.8.04 as stated above. So, delay may be accordingly condoned and petition may be admitted for disposal.

4. FACTS OF THE CASE:

i) That the applicant is the citizen of India by birth and permanent resident of the aforesaid locality and as such he is entitled to all the rights and previledges

contd...

श्री वेदान्त
दास

guaranteed to a citizen by the Constitution of India and other laws of the land.

ii) That the applicant is the son of Late Sarat Chandra Das, who was working as Watchman under XECn/EWS/ENGN of N.F. Railway and died on 8.8.76 during the course of his service.

iii) That the applicant read upto Clas X, but due to poor financial conditions he could not continue his further studies. The applicant also belongs to more other backward classes.

Copies of the School Certificate and Caste Certificate are annexed herewith as Annexures B and C respectively.

iv) That after the death of the father of the applicant the applicant was minor and as such his mother submitted several representations before the concerned authority to appoint her on compassionate ground, but the respondents/authority have not taken any positive steps in this regard, rather assured that she would be accomodated with a job on compassionate ground later on but with no result. As such, the mother of the applicant submitted another representation before the respondent No. 3, through proper channel on 6.1.01 with prayer to appoint the applicant on compassionate ground and the same is still pending before the respondent No. 3 who has neither appointed the applicant

contd...

15th
12/11/51
12

in any one of Grade IV post under his establish^{ment}, nor disposed of the representation dated 6.1.01 till date, for the reasons best knownto him.

copy of the representation dated
6.1.01 is annexed herewith as
Annexure- 'D'.

v) That the Union of India is a welfare state and that has to provide appropriate justice with the promptness, more particularly when the constitution guaranteed its citizens of maintaining human life with dignity in all shapers. The instant matter therefore, deserved special attention to reaffair the faith of the people in the Rule of Law, and also to bail out the applicant from the destitution which has subjected immense sorrows and sufferings due to the death of Late Sarat Chandra Das, the father of the applicant.

vi) That the applicant begs to state that, the respondents have a duty to provide employment/appointment to the bereaved family of Late Sarat Chandra Das as prayed for but till date the respondents have done nothing in this regard excepting some assurances.

vii) That the applicant has all requisite qualifications for any Grade IV posts under the Railway administration and there is no any impediment in considering his case for appointment in any Grade IV post, being the son of Late Sarat Chandra Das a ~~former~~ Watchman under the respondents.

contd...

27/02/2012
15/02/12

13

viii) That the applicants have no other alternative, efficacious remedy except approaching this Hon'ble Tribunal and the relief/reliefs prayed for would be just, adequate and complete, if granted.

ix) That applicant seeks justice and same has been denied to him, hence he has approached before this Hon'ble Tribunal, so that, this Hon'ble Tribunal may kindly intervene and provide justice to the applicant.

5. GROUND OF RELIEFS WITH LEGAL PROVISIONS :

i) That the Union of India is a welfare state and thus has to provide appropriate justice, with all promptness, more particularly when the constitution of India guarantees its citizens of maintaining human life with dignity in all spheres. The instant matter, therefore, deserves special attention to reaffirm the faith of the people in the Rule of law, and also bail out the applicant from the destitution which has subjected immense sorrows and sufferings due to the death of late Sarat Chandra Das for which provisions are also there in the Railway Act, under Section 124 and 128 of Railway Act, Circular etc. issued in this regard from time to time.

ii) That there are certain norms and guidelines laid down by the Railway Administration as provided in the power issued by the Chief Personnel Officer, N.F. Railway, Maligaon, under the head of "Brief facts on compassionate Grounds" for the appointments of persons similarly situated as the applicant, but the Respondents have taken no steps to discharge their constitutional

14
27/07/04
475

and other obligations till date leaving the applicant in distress with his old aged mother and other members who are the dependants of Late Sarat Chandra Das.

6. REMEDIES ALREADY EXHAUSTED :

Earlier the mother of the applicant submitted several representations before the concerned authority seeking appointment on compassionate ground but with no effect till date. Lastly the petitioner filed writ petition being W.P.(C) NO. 2828/2004, before the Hon'ble Gauhati High Court, seeking reliefs, but the same was withdrawn with liberty to approach this Tribunal, for appropriate relief on the ground of jurisdiction.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT -

That the instant relief was sought by way of filing W.P.(C) No. 2828/04, before the Hon'ble Gauhati High Court, but same was withdrawn with liberty to approach this Hon'ble Tribunal for appropriate remedy. So, the matter is not disposed on merit.

8. RELIEF SOUGHT FOR -

- (i) Appointment of the applicant on compassionate ground in Grade IV post in any department/branch under the Railway Administration as per the applicant's qualifications.

contd...

অস্বিন্দু দাস
১১/৯/০৪

১১

9. INTERIM RELIEF, IF ANY PRAYED FOR :

- (i) To direct the respondents to keep a post of Grade-IV vacant in any department/branch of the Railway Administration for which the applicant is eligible till the final disposal of this matter and/or to dispose of the matter on motion stage considering the long pendency of the matter in the interest of justice.

VERIFICATION

I, Shri Arabinda Das, son of Late Sarath Chandra Das, aged about 30 years, do hereby declare that the contents of this application made from paragraph 1 to 9 including its grounds are true to my knowledge, belief and information and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this th day
of September, 2004 at Guwahati.

Signature of the Applicant

শ্রী অস্বিন্দু দাস

तारीख Date of application for the copy.	संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	देने की तारीख Date of delivery of the requisite stamps and folios.	प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
22/9/13	22/9/13	22/9/13	24/9/13	26/9/13

- 8 -

Annexure - A

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from

Civil Rule

S/C

No. 2828 of 2004

Sri. Arabinda Das.

Appellant

Petitioner

General Manager, ^{Assam} Railway, ^{vs} Maligaon, Gauhati

Respondent

Opposite Party

Appellant

For

Petitioner

Respondent

For

Opposite Party

Mr. M. Malini
 Mr. D. Sahoo
 Mr. R. R. Patgiri
 Mr. J. Choudhury
 S. C. Rty

Noting by Officer or Advocate	Serial No	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Handwritten initials/signature

Gauhati High Court at Guwahati



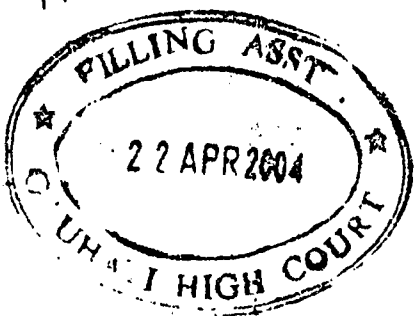
IN THE MATTER OF :

Shri Arabinda Das,
son of Late Sarat Chandra Das,
vill. Patiladaha (Baruah Para),
P.O. Patiladaha, Dist. Bongaigaon,
Assam,

... PETITIONER.

-Versus-

1. The General Manager (P),
N.F. Railway, Maligaon, Guwahati-11.



contd...

- 10 -
3

19

- 3 -

- 2. The Deputy Chief Engineer/Br./Line,
N.F. Railway, Maligaon, Guwahati- 11.
- 3. The XEE/EWS,
N.F. Rly, Bongaigaon, Assam.

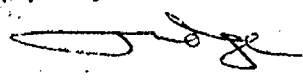
... RESPONDENTS.

Handwritten initials

Gauhati High Court at Guwahati

Attended by:-
Handwritten signature
 (Sri N. K. Das Nath)
 Advocate
 Dt. 10.11.2004.

Noting by Officer or Advocate	Serial No.	WP(C) No. 2828/04 Office notes, reports, orders or proceedings with signature
BEFORE		
HON'BLE MR. JUSTICE I.A. ANSARI		
31.08.2004	Heard Mr. M U Mahmud, learned counsel, appearing on behalf of the petitioner and, Mr. S Sarma, learned Standing Counsel for Railways.	As sought for, on behalf of the petitioner, this writ petition is disposed on being withdrawn by the petitioner with liberty granted to him to approach this Court with appropriate application, in future, if so advised.

Sd. I A Ansari


CERTIFIED TO BE TRUE COPY
Akon Borpatra Gohain
24/9/04
Gauhati High Court at Guwahati

NK
22/9/04

PG-28955
22/9/04

Attested by:-
N.K. Datta
(Sr. N.K. Datta)
Advocate
dt 10.11.04

Book No.

Serial No. 185

PATILADAHIA PROVINCIALISED HIGH SCHOOL.



Certified that Miss Arabinda Das son/daughter of late Sarwat Ch Das an inhabitant of the village Patiladaha in the district of Bongaigaon left the Patiladaha Provincialised High School on 31-12-23. His / Her age at that date according to the Admission Register was 18 (eighteen) years 6 (Six) months 20 (Twenty) days. He/She was reading in Class IX (Nine) and passed/had not passed the Annual Examination for promotion to Class X (Ten).

All sums due by him/her have been paid. viz.

Fees up to	Rs.	Clear
Fine up to	Rs.	Nil
T.C. up to	Rs.	1.00
Character -	Good	

Reasons for leaving: -

- i) Unavoidable change of residence.
- ii) Ill health.
- iii) Completion of the school course.
- iv) Minor reasons.

Dated - 1st January '94
 Patiladaha Provincialised H. E. School,
 P. O. Patiladaha:
 Dist. Bongaigaon (Assam)

COUNTER SIGNED,
5/1/94
 Director, Bongaigaon

1/1/94
 Signature of Head Master.
 Headmaster
 Patiladaha High School
 Bongaigaon

Patiladaha Govt. High School
 Patiladaha
 Bongaigaon
 Assam

2/2/94
 2/1/94
 V. A. S.
 Supt. Vety. Disp.
 Manikpur.

Re
 Transferred by
 Advocate
 dt. 10.11.04.



GOVT. OF ASSAM

OFFICE OF THE
SUB-DIVISIONAL OTHER BACKWARD
WELFARE DEVELOPMENT BOARD

BIJNI :: BONGAIGAON

Pin-783390

Form of Caste Certificate

This is to certify that Shri/Shri/Kumari Arabinda Das

son/daughter/wife of Late Sarat Ch. Das

of Village/Town Patiladaha. P.O. Patiladaha.

Sub-Division Bijni District Bongaigaon of

the State of Assam belongs to Koch-Rajbanshi Caste/

Community which is recognised as Other Backward Class / More

Other Backward Class under the provisional list.

Shri / Shri / Kumari Arabinda Das and

his / her family ordinarily reside (s) in Village/Town Patiladaha

under Bongaigaon District of the

State of Assam.

COUNTERSIGNED

1148
12-10-93

[Signature] 12-10-93
CHAIRMAN

Bijni Sub-Divisional O.B.C. Board.

[Signature]
Sub-Divisional Officer (C.C.)

(SEAL)
Sub-Divisional O.B.C.

[Signature]
21/10/93
S. A. S.
Block Veng. Bhab
Manikpur

Received

[Signature]
Attended by
Advocate
21.10.11:04.

-14-

to

The Dy. Chief Engineer/Bx/Line
N.F.Rly., Maligaon.

Through: WM/EWS/BNGN

Respected Sir,

Sub B: Prayer for compassionate appointment of my son
in Group 'D' category.

- Ref : 1. My previous appeal dt. 23.7.82
2. XEN/EWS/BNGN's L/No. 470-E/6 dt. 8.8.82 &
E/227/EWS/2 dt. 18.8.87.
3. Your L/No. EW/227/1 (Rect.) Wel dt. 1.9.82
addressed to GM/NFR/MLG.

With due respect I beg to lay the following few lines
for favour of your sympathetic consideration please.

That Sir, my husband late Sarat Chandra Das, Ex-W/Man
working under XEN/EWS/BNGN expired on 8.8.76 permanently while
in service. After his expiry I had prayed for compassionate appoin-
ment in Gr. 'D' category vide reference (1) and the same had been
forwarded to you by XEN/EWS/BNGN vide reference (2) and to GM/NFR/MLG
by your good self vide reference (3) above.

But Sir, till date I have not been favoured with the
compassionate appointment and ^{passing} ~~putting on~~ with four children with
utmost difficulty. Now I have been old enough waiting for the said
offer.

Hence, I further request you to kindly appoint my
son on compassionate grounds. His Bio-data is furnished below.

1. Name : SHRI ARABINDA DAS
2. Date of Birth : 13-6-73
3. Educational qualification : Class IX Passed
4. Father's Name : Late Sarat Chandra Das
5. Father's designation : - EX-Watchman
6. Working Under : XEN/EWS/BNGN
7. Date of death : 8-8-76
8. Whether SC or ST or OBC : - OBC
9. Permanent address : Vill & PO Paliladaha Dist Bongaigaon
PIN = 783391

Thanking you

Address for communication :

Sri. Arabinda Das
Vill & PO Paliladaha, (Baruah Para)
Dist: Bongaigaon. PIN 783391

Copy for information & necessary action |
to.

Secretary/NFR/MLG/BNGN.

Yours faithfully,

श्रीमती महीनी बाला दास

(Mohini Bala Das)
w/c Late Sarat Chandra Das
Ex-Watchman under
XEN/EWS/BNGN.

Attended
by
NFR

Advocate
Dt. 10.11.

Received
9/10/82

Central Administrative Tribunal
10 MAR 2004

Filed by
New 1073/05
DR. M. C. Panu
Advocate
713.
Chief Personnel Officer JHO
N.F. Railway, Mailgaon
Guwahati-11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

IN THE MATTER OF

O.A. 262/2004

Shri Arabinda Das

Applicant

Versus

Union of India represented by
General Manager(P), N.F. Railway
and Others

Respondents

AND

IN THE MATTER OF

Written statement on behalf of the Respondents

The answering respondents respectfully SHEWETH :

1. That the answering respondents have gone through the copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which are borne on records all other averments/allegations as made in the application are emphatically hereby denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those points/allegations/averments of the applicant which are found relevant for enabling a proper decision on the matter.

3. That the application suffers from want of a valid cause of action as will be clear from the submissions made in the relevant paragraphs below.

4. That the application suffers from wrong representation and lack of understanding of the circumstances and facts relating to the matter on hand as will be clear from the submissions made.

5. Parawise remarks:

5.1. As regards paragraphs 4(i), 4(ii) and 4(iii), the answering respondents beg to offer no remarks except to assert that the applicant is put to a strict proof of the claims made by him in those paragraphs.

5.2. As regards paragraph 4(iv) the answering respondents beg to state that Smt. Mohini Bala Das, wife of late Sarat Chandra Das, ex-watchman under works Manager, Engineering Workshop, Bongaigaon, who expired on 8.8.76

(2)

submitted her application for compassionate appointment on 23.07.1982 (as indicated in the copy of the application dated 06.01.2001 enclosed with the O.A. as annexure D). This was nearly six years (to be precise, five years 11 months and 15 days) after expiry of the ex-employee. As per extant instructions issued by the Railway Board "Near relative could be considered for compassionate appointment only within five years of the death of the deceased employee". Since the wife of the deceased employee applied for compassionate appointment five years after expiry of the deceased employee, her application could not be considered. These instructions issued from time to time were reiterated by the Railway Board vide their letter No.E(NG)II/91/RC-I/65 Policy dated 07.08.91.

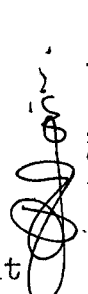
A copy of this letter dated 07.08.91 is enclosed herewith and marked as ANNEXURE A.

In this connection the answering respondents beg to state that Smt. Mohini Bala Das, wife of Late Sarat Ch. Das, had applied for appointment of her elder son, Shri Jagat Ch. Das on compassionate ground vide her application dated 21.07.1987. However, Shri Jagat Ch. Das could not be appointed as he was still a minor as per records submitted. After attainment of majority at the age of 18 years, Shri Jagat Ch. Das did not turn up for appointment on compassionate ground. Hence his case for appointment could not be processed.

As regards the contention of the applicant that his appointment on compassionate ground was not made by the respondents on the basis of his mother's application dated 06.01.2001, it is submitted that as per clarification issued by the Railway Board vide their letter No.E(NG)II-84/RcI/26 dated 18.04.1985 application for appointment on compassionate ground can be considered for minors attaining majority only in cases less than ten years old as reckoned from the date of death. As the mother's application in this case was made by the applicant's own admission more than 24 years after death of the employee the application was patently time-barred and hence could not be considered.

A copy of the Railway Board's letter No.E(NG)II-84/RcI/26 dated 18.04.85 is enclosed herewith and marked as ANNEXURE B

In view of what is indicated above the answering


Chief Personnel Officer (H/O)
N.F. Railway, Maligaon
Guwahati-11

(3)

respondents deny the allegation/averment made in the application that the respondents have not taken any action on the matter. On the other hand, it is clear from what has been stated in the above paragraphs that unfortunately the widow or other members of the family did not apply for compassionate appointment at the appropriate time to enable the respondents to render necessary assistance in the matter. Thus, when various approaches were made they were time-barred and beyond the powers of the respondents.

5.3. As regards paragraphs 4(v) and 4(vi), the answering respondents have no remarks to offer except to state that decisions of compassionate ground appointment is governed by guidelines issued by the Railway Board and as the applicant's case did not satisfy the criteria prescribed by the guidelines the same could not be favourably considered.

5.4. As regards paragraphs 4(vii), 4(viii) and 4(ix), the answering respondents beg to reiterate what has been stated in paragraphs 5.2 and 5.3 above and regret that their hands are bound by the regulations and guidelines issued on the matter by the Ministry of Railways through the Railway Board and that no assistance could be rendered to the applicant at this late stage.

It is therefore prayed that the Hon'ble Tribunal be pleased to peruse the submissions made hereinabove and considering that the application has been made due to a wrong understanding of the facts of the matter and without a valid cause of action dismiss the application with costs.

And for this act of kindness the respondents shall as in duty bound shall ever pray.

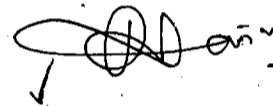
35
by. Chief Personnel Officer / Agg
N.F. Railway, Maligaon
Guwahati-11

(4)

VERIFICATION

I, Shri R. AAIVU, son of Late
Shri S. Ramasamy, aged about 39
years, at present working as Dy.CPO/HQ,
N.F.Railway, Maligaon, do hereby verify and solemnly
affirm that the statements made in paragraphs 1 to 5 are
true to the best of my knowledge and information derived
from records which I believe to be true and the rest are
my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the _____
day of March, 2005.

 213

Signature Dy. Chief Personnel Officer / HQ
N.F. Railway, Maligaon
Guwahati-11
Designation.

5
34.38
Annexure A.
N.F. RAILWAY.

OFFICE OF THE
GENERAL MANAGER (P).
Maligaon, dated 7-8-91.

No. 586E/81/1(W) Pt. I.
To

DRMs/KIR, APDJ, IMG,
TSK, DY. CME/NBQ, DBWS
CWE/Maligaon, CSC/Maligaon
GS/NFREU/NFRMU/PNO.

Sub:- Appointment on Compassionate Grounds.
clarification regarding.

A copy of Railway Board's letter No. E(NG)II/91/RC-I/65 Policy dated 7.8.91 is forwarded for information and guidance please.

DA/As above.

W. S. S. S. S.
for General Manager (P),
N.F. Rly/MLG.

(Copy of Railway Board's letter No. E(NG)II/91/RC-1/65 Policy dt. 7.8.91.
....

Sub:- Appointment on compassionate grounds -
Clarifications regarding.

Under items III and V of Master Circular No. 16 issued vide E(NG) II/90/RC-1/117 (M.C.) dated 12.12.90 on the above subject details have been indicated in regard to persons eligible to be appointed on compassionate grounds as also time limits laid down for making of such appointments.

2. In this connection, attention is invited to Railway Board's letter No. E(NG)II/84/RC-1/172 dated 1.3.85 and earlier letter No. E(NG)III/78/RC-1/1 dated 30.4.1979. Ministry of Railways desire to clarify as under:-

- (i) Near relative could be considered for compassionate appointment ~~appointment~~ only within first five years of the death of the deceased employee subject to stipulations laid down in Board's letter No. E(NG)III/78/RC-1/1 dated 3.2.81 and E(NG)II/88/RC-1/1 Policy dated 12.2.90 and also referred to in para 3(a) of the Master Circular No. 16.
 - (ii) General Managers could consider cases of compassionate appointments to other than first child only within * 5 years of death, as mentioned in para 3 of Board's letter No. E(NG)II/84/RC-1/172 dated 1.3.85, whereafter the claim will lapse. Beyond 5 years, cases could be considered only in respect of the first ward (son/daughter) but only upto 10 years from the date of death of the deceased employee.
 - (iii) In ~~some~~ respect of dependants of employees who die or are permanently crippled in the course of duty (priority I cases), General Managers could consider appointment of first ward (son/daughter) even beyond 10 years from the date of death, till they attain majority.
3. Necessary action may be taken in accordance with these instructions for giving compassionate appts. to wards/near relatives of the deceased employees.
 4. Kindly acknowledge receipt.

514-7

True copy
Mlu *Advocate* // *6*

Annexure B
28

Copy of Rly. Board's letter No.E(NG)II-84/RC1/26 dt. 18.4.85 addressed to the General Managers all and others.
....

Sub:-Appointment on compassionate grounds -
time limit for appointment.
....

In para 1(2) of this Ministry's letter No.E(NG)III-78/RC1/1 dated 30.4.79 on the subject of compassionate appointments, it was laid down that in the case of staff who die in harness and where the widow can not take up employment and sons/daughters are minor, the case may be kept pending till the first son/daughter becomes a major, i.e. ~~she~~ attains the age of 18 years. However, such cases can be kept pending for a period of only five years, after which appointment on compassionate grounds will not be permissible. As an exception to this provision, the General Managers may personally authorize a relaxation of this limit of ~~the~~ five years in deserving cases of employees whose cases fall under para 4(i) of the same letter.

2. Subsequently, in December, 1980, the Railways Administrations were advised to the effect that in cases involving special circumstances they could, with the personal approval of the General Manager, approach this Ministry for relaxation of the limit of five years in other cases.

3. The question of delegation of powers to the General Managers for relaxation of the limit of five years in all cases has been engaging the attention of this Ministry for some time past. It has now been decided that all cases of death of an employee while in service, compassionate appointment as permissible under the extant instructions, could be approved by the General Managers even beyond the limit of five years, subject to the following conditions:

- i) The powers shall be exercised personally by the General Manager. It shall not be delegated to a lower authority.
- ii) The cases should not be more than ten years old as reckoned from the date of death.
- iii) The widow of the deceased employee should not have re-married.
- iv) The benefit of compassionate appointment should not have been given at any time to any other member of the family or to a relative of the deceased employee.
- v) The circumstances of the case should be such as to warrant relaxation of the time limit of five years.
- vi) The reasons for relaxing the time limit should be placed on file.
- vii) The request for compassionate appointment should have been considered for compassionate appointment has become a major by the Railway Administration as soon as the son/daughter is within a maximum period of six months.

4. The Ministry of Railways have further decided that the delegation as above will for the present be current upto 31st March, 1987. This will be reviewed some time at the beginning of 1987.
5. A record of such cases should be kept and the number of such considered during 1985-86 and the number of appointments made (separately Group C (Class III) and Group D (Class IV) categories) may be advised to the Ministry by 31st May, 1986.
....