

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 11th day of February, 2009

ORIGINAL APPLICATION NO.383/2006

CORAM :

HON'BLE MR.B.L.KHATRI, ADMINISTRATIVE MEMBER

Smt.Shanti Devi
W/o Late Shri Kalu Ram Meena,
R/o Village Gulana ki Jhonpri,
Tehsil and Post Baswa,
District Dausa.

... Applicant

(By Advocate : Smt.Sangeeta Sharma)

Versus

1. Union of India through
General Manager,
North Western Railway,
Headquarters Office,
Jaipur.
2. General Manager (Personnel),
North Western Railway,
Headquarter Office,
Jaipur.
3. Divisional Railway Manager,
North Western Railway,
Jaipur.

... Respondents

(By Advocate : Shri Virendra Dave)

ORDER

PER HON'BLE MR.B.L.KHATRI

The applicant has filed this OA challenging the order dated 1.6.2006 (Ann.A/1), whereby her request for grant of compassionate appointment to her son has been rejected.

2. Applicant's husband, Shri Kalu Ram Meena, was working as Gangman under Chief Railway Inspector, Alwar, and died in harness on 3.4.82. Learned counsel for the applicant relied upon the pleadings made through OA and, inter-alia, made the following submissions :

- i) That on death of applicant's husband, Welfare Officer of the Jaipur Division had visited applicant's house and got all the formalities completed with regard to payment of terminal benefits and family pension. The family pension was allowed to the applicant as per Pension Rules of the Railways and she is getting a very paltry amount by way of pension.
- ii) That the applicant being an illiterate lady could not and did not know as to what formalities were also required for getting compassionate appointment for her son when he attains majority. It was for the said Welfare Officer to have got all the formalities completed.

Learned counsel for the applicant relied upon Railway Board's Circular [RBE No.101/94] (Supplementary Circular No.3 to Master Circular No.16) dated 22.11.94, relevant portion of which reads as under:

"2(i) The Railway Administration/Production Units etc. should ensure that proper guidance is given to the families/applicants regarding the formalities to be completed for compassionate appointment ;

- ii) (a) For the above, among other things, a brochure giving an outline of the procedure including a check list of all documents to be attached to the application for compassionate appointment should be prepared by each Railway/Production Unit etc.

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(b) A Register should be maintained by the Welfare Wing in each Division/Unit etc., containing detailed particulars of the deceased employees including the date on which the children of the deceased would attain the age of majority, etc. One column in the register should invariably indicate the file number opened for the same ;

(c) The Welfare Wing should intimate the widow/the family enclosing a copy of the brochure as at (ii)(a) above and bringing out among other things that in case the appointment is sought for the son/daughter who is minor at the time of death of the employees, application for appointment must be submitted immediately after the candidate attains the age of majority and, in any case, well within the prescribed time limit for submitting such application. (The present time limit of one year for submitting the application after attaining the age of majority is being raised to two years, separately).

3. As the Railway Administrations are aware, the very purpose of compassionate appointment is to provide immediate financial assistance to the bereaved family and if the offer of appointment is delayed, the object of the scheme is defeated. It is, therefore, necessary that concerted efforts should be made by the Administration to ensure that compassionate appointment cases are processed at the earliest so that eligible and suitable candidates get appointment early.

4. Board desire that the directives given in para 2 above may be followed scrupulously."

iii) It was also submitted that GM had been delegated powers to consider cases of compassionate appointment of first son or first daughter provided the case is not more than 20 years of employee's demise and application has been made within two years of attainment of majority of the candidate,

iv) That applicant's son was to attain majority on 14.7.94, therefore, the applicant made an application as early as on 15.3.93 (Ann.A/2) in anticipation of son attaining the majority to the respondents with a prayer to give appointment to her son Shiv Lal Meena on compassionate grounds. However, the respondents vide letter dated 12.8.98 informed her that the competent authority has not found it justified to give appointment to her son on

compassionate grounds, but no reasons for this decision were given.

- v) But when no reply was given by the respondents the applicant again made another representation on 10.3.2005 (Ann.A/4). In reply to the letter dated 10.3.2005 the respondents wrote to the applicant that she was informed vide letter No.E/891/Misc./Anukampa dated 28.7.2005 (Ann.A/5) that the competent authority had not found it justified to give appointment to her.
- vi) That applicant's son Shiv Lal Meena again made a representation on 14.10.2005 (Ann.A/6) to let him know the reasons for the decision of the competent authority.
- vii) That the applicant received a letter/order dated 8.11.2005 (Ann.A/7) from the DRM Office Jaipur to the effect that since registration was not got done within time after the death of applicant's husband, it was not possible to give appointment to her son.
- viii) That the applicant again made a request vide her application dated 9.5.2006 (Ann.A/8) giving all the details and stating that in the letter/order dated 12.8.98 why the applicant's son was not found by the competent authority to be eligible for appointment.
- ix) That the applicant received the impugned letter dated 1.6.2006 (Ann.A/1) in reply to the applicant's representation dated 9.5.2006, wherein they finally turned down the request of the applicant on the ground that the matter has become 24 years old.

3. Learned counsel for the applicant also replied upon the case of *Latish Kumar v. State Bank of India* and another [2003 (1) SLR 509] and contended that facts of the case before us are similar to the facts of the case decided by the Hon'ble High Court (DB). In the case before the Hon'ble High Court, case of the petitioner was not considered simply on the ground that he

made application after three months of expiry of one year from the date of death of his father. It was held by the High Court that the delay of three months cannot be held to be abnormal/exceptional as mother of the applicant is illiterate village woman and she had not been informed that application for compassionate appointment is to be filed within one year of date of death of her husband. In the circumstances, the respondents were directed to re-examine the case of the petitioner and pass appropriate orders.

4. Learned counsel for the applicant also relied upon the case of *Shantilal K. Solanki v. Union of India and Anr.* [2003 (2) SLR 80], wherein it was observed that the petitioner was minor at the time of death of his father. Immediately after attaining majority he applied for appointment on compassionate grounds. The Tribunal rejected application on the ground of delay. In this case, representation was made prior to the expiry of the three years period upon the attainment of majority by the petitioner. Therefore, the delay was condoned and authorities were directed to consider the case of the petitioner for compassionate appointment.

5. Learned counsel for the respondents relied upon the submissions made through reply and, inter-alia, made the following submissions ;

- i) As regards the contents of para (i) of the pleadings, it was submitted that the terminal benefits and family pension has been given as per procedure and scheme.
- ii) As regards the contents of para (ii), it was submitted that the facts mentioned by the applicant in this para are not admitted. The applicant has also reproduced Railway Board's direction in the matter of appointment on compassionate grounds, which are admitted and it is further clarified that the Welfare Officer has completed formalities for pension and other benefits but in the matter of compassionate appointment it is for the deceased wards to apply first as per the Board's direction

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and thereafter the matter will be considered as per Railway Board's direction/circular. Applicant's case is that her son was minor at the time of death of the employee but as per the Railway Board's direction a register has been maintained by the welfare wing and after the death of the employee the name of the deceased has to be registered but in this case the applicant had not made any application in this regard within the prescribed time limit. Therefore, the name has not been registered. It is further submitted that the applicant's son who was minor at the time of death of the employee has not filed any application within the prescribed time limit after attaining the age of majority.

- iii) As regards the contents of para (iii), it was submitted that as per the office record no application on 15.3.93 has been received. It is just an afterthought to consider her case within time. It is further submitted that an application dated 28.5.98 has been received from the applicant by the respondents and the same has been answered vide letter dated 12.8.98 (Ann.R/1).
- iv) As regards the contents of para (iv), it was submitted that the representation dated 10.3.2005 has been received by the respondents and the same has been replied vide letter dated 28.7.2007 informing the applicant that the competent authority has not found fit and proper to appoint Shri Shiv Lal Meena on the ground of compassionate appointment.
- v) As regards the contents of para (v), it was submitted that representation dated 14.10.2005 has not been received by the respondents but the applicant submitted a representation on 14.10.2005 before the Compassionate Adalat 2005 and in that Adalat case of the applicant has not been considered for the reasons conveyed to the applicant vide order dated 8.11.2005.

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- vi) As regards the contents of para (vi), the same were admitted.
- vii) As regards the contents of para (vii), it was submitted that respondent office has not received representation/application dated 9.5.2006 nor the applicant has submitted such application. On 15.2.2006 a representation/application had been submitted by the applicant and the same has been replied vide letter dated 9.5.2006 informing that case of the applicant has not been found fit and proper to appoint on compassionate grounds.
- viii) As regards the contents of para (viii), it was submitted that case of the applicant has been turned down as per Railway Board's direction/circular because the applicant has not submitted his application as per the prescribed time limit, hence case of the applicant has been rejected.

6. Learned counsel for the respondents also relied upon the case of State of J&K and Ors. v. Sajad Ahmed Mir [Appeal (Civil) 6642 of 2004], decided on 17.7.2006 by the Hon'ble Supreme Court. In that case, father of the applicant died on 6.3.87. Application was made by the applicant after four years i.e. on 20.9.91, which was rejected in the year 1996. Writ Petition was filed in June, 1999, which was dismissed by the learned single Judge in July, 2000. When the DB decided the matter, more than fifteen years had passed from the date of death of the father of the applicant. The said fact was indeed a relevant and material fact which went to show that the family survived in spite of death of the employee. Moreover, in our opinion, the learned single Judge was also right in holding that though the order was passed in 1996, it was not challenged by the applicant immediately. Under such circumstances, it was held that DB ought not to have allowed the case. The appeal of writ petition was allowed and the petition filed by the respondent i.e. applicant before the single Judge was ordered to be dismissed.

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7. I have heard learned counsel for the parties and perused the record.

8. In this case, applicant's husband Shri Kalu Ram Meena was working as Gangman under Chief Railway Inspector, Alwar, and died in harness on 3.4.82. The applicant claims to have made an application on 12.6.82 to get her son's name noted for appointment on compassionate grounds but neither copy of this application has not been enclosed with this OA nor any proof in support thereof has been filed. Applicant's son, Shiv Lal Meena, was to attain majority on 14.7.94 and, as per assertion in the OA, the applicant made another application on 15.3.93, as per Ann.A/2. It was, however, submitted by the respondents that as per office record no such application had been received by them. The applicant submitted another application dated 28.5.98, which had been received by the respondents and the same had been replied vide letter dated 12.8.98 (Ann.R/1). Through this letter dated 12.8.98 (Ann.R/1), the applicant was informed that the competent authority has considered the case of her son Shiv Lal Meena for appointment on compassionate grounds but he was not considered fit for appointment. The applicant had submitted another representation dated 10.3.2005 and the same had been replied vide letter dated 28.7.2005 informing the applicant that the competent authority has not found fit and proper to appoint her son on compassionate grounds. The applicant submitted another representation dated 14.10.2005 but the same was not considered by the respondents as the applicant submitted this representation before the Compassionate Adalat - 2005 and in that Adalat case of the applicant had not been considered for the reasons already conveyed to the applicant vide letter dated 8.11.2005.

9. After consideration of the record, I find that case of the applicant had been considered not only once but twice but her son was not found fit for appointment on compassionate grounds. Repeated representations cannot help the applicant to raise the issue for reconsideration on one pretext and the other. Husband of the applicant expired on 3.4.82. At this




stage, in spite of the fact that the respondents have considered her case twice cannot again be directed to reconsider the case specially in view of the fact that application can be made only within two years from the date of death of the employee and the case can be considered within a period of 20 years from the date of death of the government servant.

10. Having regard to the facts of the case, I am of the opinion that the applicant has not been able to make out any case for giving any direction to the respondents to give appointment to her son on compassionate grounds. Besides, applicant's son Shiv Lal Meena having attained majority has not filed any application before this Tribunal. He is not even a co-applicant in this OA. Therefore, no direction can be given to the respondents to reconsider his case for appointment on compassionate grounds. Besides, the cause of action in this case arose on 12.8.98 when the applicant should have approached this Tribunal.

11. Having regard to the facts and circumstances of the case in hand and the facts and circumstances of the cases relied upon by learned counsel for the applicant, I am of the opinion that the cases relied upon by learned counsel for the applicant are of no help to the applicant.

12. With these observations, the OA stands dismissed with no order as to costs.


(B.L. KHATRI)
MEMBER (A)

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