

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL


11.05.2009

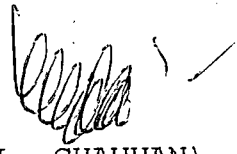
OA No. 137/2009 with MA 98/2009

Mr. Rajesh Kala, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 11th May, 2009

ORIGINAL APPLICATION NO. 137/2009

With

Misc. Application No. 98/2009

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Vijay Kumar Lakhan son of Late Shri Jagdish Prasad Lakhan, aged about 30 years, resident of Harizan Basti, Nawa City, District Nagaur.

.....APPLICANT

(By Advocate: Mr. Rajesh Kala)

VERSUS

1. Union of India through the General Manager, North Western Railway, Mumbai.
2. Divisional Railway Manager, North Western Railway, Jaipur.
3. Senior Divisional Personnel Officer, North Western Railway, Jaipur.

.....RESPONDENTS

(By Advocate : -----)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- a) Declare the action of the respondents in not considering the case of the applicant for appointment on compassionate ground and in not giving him appointment on a suitable post in place of his father late Shri Jagdish Prasad as illegal and unconstitutional and the same may kindly be quashed and set aside.
- b) direct the respondents to consider the case of the applicant for appointment on compassionate ground on a suitable post being adopted son of Late Shri Jagdish Prasad - a deceased railway servant and give him appointment.
- c) pass any other orders as may be deemed just and proper the facts and circumstances of the case including award of cost of this original application."

2. Briefly stated facts of the case are that the applicant claimed to be the adopted son of Late Shri Jagdish Prasad, who died while working as Fitter Grade III in Carriage Phulera on 28.12.1990. As can be seen from the material placed on record, no adoption deed was prepared prior to the death of Late Shri Jagdish Prasad. However, adoption deed was prepared only in the year 1991 after the death of deceased Shri Jagdish Prasad and the same was got registered after a lapse of about 11 years on 06.02.2002. As can be seen from the material placed on record, application for compassionate appointment was submitted to Respondent no. 3 for the first time on 30.10.2002 after a lapse of 12 years. However, the matter was processed and the mother of the applicant was requested to produce the adoption deed and affidavit so as to verify the facts. It is the case of the applicant that no intimation has been received from the respondents so far regarding grant of compassionate appointment. He also served a legal notice on 05.01.2009. Since nothing has been heard from the respondents, he filed the present OA thereby praying for the aforesaid reliefs.

3. Alongwith the OA, the applicant has also filed a Misc. Application for condonation of delay thereby stating that the application for compassionate appointment was submitted on 30.10.2002 and certain documents, as asked for by the respondents, were also furnished in the month of March, 2003. The respondents are sitting tight over the matter. These are sufficient grounds for condoning the delay.

4. We have heard the learned counsel for the applicant. We are of the view that the present OA is hopelessly time barred and cannot be entertained at this belated stage. Admittedly, Shri Jagdish Prasad died on 28.12.1990. The present OA has been filed after a lapse of 18 years. Further at the time of death of Late Shri Jagdish Prasad, the applicant was minor, as such he could not have been given compassionate appointment even if it is assumed that he was the adopted son of Late Shri Jagdish Prasad. That apart, the applicant has attained majority in the year 1996 but he did not pursue the matter immediately thereafter and admittedly the application for grant of

compassionate appointment was made on 30.10.2002 and this OA has been filed in the year 2009. Thus in view of the law laid down by the Apex Court in the case of **Union of India vs. Joginder Sharma**, 2002 SCC (L&S) 1111, and **State of J & K and others vs. Sajad Ahmed MIR**, 2006 SCC (L&S) 1195; such belated claims cannot be entertained at this stage. The applicant has also not pleaded as to how the family is in indigent circumstances. The widow must be getting family pension and other retiral benefits. The applicant has not mentioned in the OA the amount of pension, which the widow is getting, and other financial conditions and liabilities etc. which may justify the grounds for grant of compassionate appointment to the applicant on the ground of penurious condition of the family, even if it is assumed that the applicant is an adopted son of the deceased Late Shri Jagdish Prasad. The very fact that family has been able to manage somehow all these 18 years is adequate proof to show that the family had some dependable means of subsistence.

5. In view of what has been stated above, the applicant has not made out any case for interference. Accordingly, both OA and MA are dismissed at admission stage with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ