

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

This the 28th day of February, 2018
Hon'ble Mr. Justice Dinesh Gupta, Member(J)

O. A. No. 330/00007/2018

Anil Kumar Pandey son of Late Sri Nagesh Pandey Ex- Head Enquiry cum Reservation Clerk, Northern Railway New Delhi r/o 130 A/3D, Teliarganj, Allahabad.

..... Applicant

By Advocate: Sri B. Tiwari
Versus

1. Union Government of India through the General Manager, Northern Railway, Baroda House, New Delhi.
 2. Divisional Railway Manager, Northern Railway, Delhi Division, New Delhi.
- Respondents

By Advocate : Sri L. M. Singh

O R D E R

By Hon'ble Mr. Justice Dinesh Gupta, Member (J)

The Applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs: -

- i) To issue an order or direction directing the respondents to take into consideration the date 23.10.1992 instead of 16.2.2001 for grant of pensionary benefits, medical facility and passes to the applicant by treating the applicant to have completed 20 years of service in the eyes of law.
- ii) To issue an order or direction directing the respondents to decide the representation dated 30.6.2017 given by the applicant to Divisional Railway Manager, Northern Railway, New Delhi as well as to the General Manager, Northern Railway, Baroda House, New Delhi through registered post on 30.6.2017 (Annexure A-7 to this O.A. in compilation II) at the earliest by passing a reasoned and speaking order within stipulated period fixed by this Tribunal.
- iii) To grant all the consequential relief which the applicant is entitled for including 12% interest for amount legally due in favour of the applicant.
- iv) To grant any other relief which this Hon'ble Court may deem fit and proper under the circumstances of the case.
- v) To award the cost.

2. The brief facts of the case are that the father of the applicant Late Nagesh Pandey while working on the post of Accounts Assistant in Accounts Section in the office of Divisional Railway Manager, Northern Railway, Allahabad died on 30.8.1992.

Thereafter, the applicant had moved an application dated 23.9.1992 for compassionate appointment through his mother which was rejected by the respondents vide order dated 20.5.1994 which was communicated by letter dated 13.6.1994 to the mother of the applicant.

2.1 After rejection order, the applicant and his mother jointly filed O.A. No. 126 of 1997 before this Tribunal which was allowed vide order dated 1st March 2000 and respondents were directed to reconsider the matter and applicant shall move a fresh representation to the respondents which shall be decided by the respondents by means of a detailed and speaking order.

2.2 The Railway administration had given appointment to the applicant on 16.2.2001 as Enquiry-cum- Reservation Clerk in Delhi Division and applicant retired on 30.11.2016 from the post of Enquiry-cum- Reservation Clerk as such the applicant did not complete 20 years of service and due to this reason, the applicant is not being provided medical facility and passes. However, the Railway Administration has issued PPO on 0.11.2016 and amount of gratuity, P.F. leave encashment and GIS has

been paid to the applicant.

3. The plea of the applicant that Railway administration had earlier wrongly rejected the claim of applicant in the year 1992 and if they had acted according to rules on the subject and applicant had been given compassionate appointment till 23.10.1992, the applicant would have completed 20 years of service and retired with full qualifying service.

4. Heard the learned counsel for the applicant Sri B. Tiwari and learned counsel for respondents Sri L.M. Singh and finally deciding this O.A. on merit without calling Counter Reply from the respondents.

5. Counsel for applicant has reiterated the facts as stated in the O.A. and further stated that as per provision laid down in the procedure for grant of compassionate appointment, the case of compassionate appointment should be considered within a month whereas the respondents have initially illegally rejected the case of the applicant for grant of compassionate appointment and after litigation and reconsideration of the case, the applicant was given appointment. Hence in his the legitimate period from 1992 to 2001 should be taken for grant of pensionary benefits.

6. The Court is unable to accept the contentions raised by the learned counsel for applicant.

7. From perusal of record, it is clear that the case of the applicant was rejected in the year 1994 and in pursuance of direction of this Tribunal in O.A. No. 126/1997, applicant was given appointment on 16.2.2001 and he retired on 30.11.2016.

As such he has not completed 20 years of qualifying service. Since the applicant was not borne in service prior to 2001, the period prior to his appointment cannot be taken for qualifying service. Merely delay in taking the decision or the matter was lingered due to litigation will not give any benefit to the applicant. As such, O.A. is devoid of merit and is liable to be dismissed.

8. Accordingly, O.A. is dismissed. No order as to costs.

(Justice Dinesh Gupta)

Member (J)

HLS/-