

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-1253/2014

Reserved on : 19.11.2018.

Pronounced on : 26.11.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Parmod Kumar,
S/o Late Sh. Shyam Sunder,
R/o H.No. 71-B, Railway Colony Hathras,
Distt. Hathras U.P. Applicant

(through Sh. U. Srivastava, Advocate)

Versus

1. Union of India through
The General Manager,
Northern Central Railway,
Allahabad, U.P.
2. The Divisional Railway Manager,
Northern Central Railway,
Allahabad, U.P.
3. The Asst. Personal Officer,
O/o The Divisional Railway Manager,
NCR, Allahabad, U.P. Respondents

(through Sh. Shailendra Tiwary, Advocate)

ORDER

Brief facts of the current O.A. are that the father of the applicant, who had been working with the respondents as Switchman at Hathras, U.P. died on 12.02.2004. The applicant applied for appointment on compassionate ground, which was duly

considered by the respondents. Consequently, vide letter dated 22.02.2005, the applicant was informed that he has been appointed on compassionate grounds to the post of Technician-III P.S.I.

2. The applicant states that the letter dated 22.02.2005 was received by him very late i.e. after expiry of the period stipulated for submission of the required documents etc. Hence, the applicant could not file the documents in time. Thereafter, the applicant kept approaching the respondents for getting the needful done but his claim was ignored on account of delay. The applicant submitted a representation to the respondents on 18.07.2006 (Annex.A/2) informing the factual position and also mentioning that he was unwell and is unable to present himself before the respondents. In the said representation, he also requested the respondents to defer his appointment till his getting well. The applicant further mentions that he remained ill from July, 2006 to March, 2010. Some copies of medical certificates are annexed at Annexure A/3.

3. After a long gap, the applicant wrote a letter dated 17.02.2011 to the respondents, reviewing his request for compassionate appointment. Consequent upon the request of the applicant, the respondents issued an order dated 08.03.2011 informing him that his request for compassionate appointment had been accepted by the respondents but since the applicant did not report for duty for more

than five years, his request for compassionate appointment cannot be now be renewed/accepted.

4. The applicant avers that the respondents after examining his case for compassionate appointment had found him fit for compassionate appointment as per relevant rules and instructions on the subject. However, since the applicant was not well, he could not avail of the opportunity provided to him. He has, therefore, filed the O.A. seeking intervention of the Court to direct the respondents to consider his case for compassionate appointment in terms of their earlier order dated 22.02.2005.

5. In the counter-affidavit filed by the respondents, it is stated that the applicant has been avoiding compassionate appointment for the last five years and reported for duty only in the year 2011 after having been given the appointment letter in the year 2005. Relying upon the decision of Hon'ble High Court of Gujarat in the matter of **Life Insurance Corp. of India Vs. | Asha Ramchandra Ambekar and Ors.**, 1994(2)SLJ 111 (Guj.), the respondents state that in the aforesaid the Hon'ble High Court held that:-

“...the court should not endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, heard the case may, it should never be done. In every case, itself there are regulations and instructions which we have extracted above. The court below has not even examined whether a case falls within the scope of this statutory provisions....We are totally unable to support this line of reasoning. For ought one knows, there may be other

cases waiting already for appointment on compassionate grounds, they may be given handed than that of the second respondent."

6. Similarly, the respondents contend that the Hon'ble Supreme Court in the matter of **National Hydraulic Power Corporation Vs. Nanak Chand**, 2004(12)SCC 487 has held that:-

"that highly belated claim made by respondent on attaining majority after 10 years of his father's death would not be maintainable."

Reliance has also been placed on the decision of Hon'ble Supreme Court in the matter of **National Institute of Technology and Ors. Vs. Neeraj Kumar Singh**, 2007(1)SCC (L&S) 668 wherein it has been held that after a long lapse of time, after the death of the employee, compassionate appointment cannot be granted.

7. I have gone through the facts of the case and the citations relied upon by the respondents. It is not disputed that the respondents processed the case of the applicant expeditiously after the death of his father and called him for documents verification on 22.02.2005. This offer of appointment was not availed of by the applicant at that point of time. His first response to the aforesaid appointment (vide his representation dt. 18.07.2006) was also after one & half years after receiving the intimation of appointment. Now suddenly the applicant has surfaced to reclaim the government job after a gap of five years. The medical certificates produced by the applicant are not of such nature which could have incapacitated

him for presenting his case personally. The applicant has obviously taken the entire issue rather casually. The reasons advanced by him are neither convincing nor substantial enough to warrant intervention of the Court at this belated stage. I find that this O.A. lacks merit and is accordingly dismissed. No costs.

**(Praveen Mahajan)
Member (A)**

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