



CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O A NO. 350/00204/2016

Dated : 20.07.2018

Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member

**Kumari P. Rajani,**

Unmarried D/o Lt P. Ramane Rao, Ex Helper

Gr-1 under SSE(AC)/KGP/S. E. Rly., aged

about 32 years, by profession -

Unemployed, at present residing at S. K.

Tewari Bhavan, near Gurudhawara Road,

Subhas Pally, P. O. Kharagpur-721301.

Applicant

-Versus-

1. **Union of India,**

through General Manager, South Eastern

Railway, Garden Reach, Calcutta-43

2. **Chief Personnel Officer**

South Eastern Railway, Garden Reach,

Calcutta-43.

3. **Divisional Railway Manager,**

South Eastern Railway, Kharagpur.

.....Respondents.

For the Applicants: Mr C Sinha, Counsel

For the Respondents: Ms N S Alam,, Counsel

**ORDER**

**Ms. Bidisha Banerje, Judicial Member**

1. The Applicant, the daughter of deceased P. Ramana Rao, Khalasi Helper, South Eastern Railway has filed this application to seek the following reliefs :

- a) To set aside and quash the Impugned Letter No.E/Rectt/CG/47/D/F/09/PR dated 12.04.2011 issued by Asstt. Personnel Officer, S. E. Railway, Kharagpur.
- b) To set aside and quash the Impugned Letter No.E/Rect/47/D/F/09 dated 6.3.2013 issued by Divl. Personnel Officer for Sr. Divl. Personnel Officer, S. E. Railway, Kharagpur.
- c) To direct the respondents to consider the case of applicant for compassionate appointment forthwith.
- d) Any other order or order(s) as the Hon'ble Tribunal deems fit and proper.

2. The grievance of the applicant, in a nutshell is as under :

Applicant's father Late P. Ramana Rao, Ex-Helper Gr-I under SSE(AC)/KGP went missing w.e.f. 09.11.2002 and General Diary, being no. 636 dated 12.11.2002 was lodged in the Kharagpur Town Police Station. The applicant preferred representation seeking payment of settlement dues and compassionate appointment and submitted a legal heir certificate. After more than seven years family pension was sanctioned in her favour vide PPO dated 06.01.2010 w.e.f. 13.11.2002 but her case for compassionate appointment was rejected vide letter dated 12.04.2011 and applicant was asked to submit a declaration of death which she did. Further her case was rejected vide letter dated 06.03.2013. She preferred a representation but the same was not disposed of. Hence this OA.

3. The materials on record reveal the following facts :

(i) The employee went missing on and from 9.11.02.

(ii) On 24.06.2003 (A-2) the applicant, being the daughter of the Late employee prayed for settlement dues of Late employee intimating that she had lodged missing diary on 12.11.2002.

(iii) On 21.04.2004 (A-3) she, being the daughter of the Late employee, prayed for employment assistance on compassionate ground.

(iv) Again on 17.03.2005 (A-3) she, being the daughter of the Late employee, prayed for settlement dues.

(v) On 22.11.2007 (A-4) she was, intimated that her father was terminated w.e.f. 12.11.02 A. N. i.e. retrospectively, which was, however, not legally permissible.

(vi) On 14.12.07 (A-5) she was advised to submit a legal heir certificate.

(vii) On 13.05.08 (A-6) Office of the Collector, Paschim Medinipur issued a certificate of family particulars of P. Ramana Rao. He certified the following:

Sl. No.	Name of the heir	Age (Year)	Relationship With deceased	Address	Remarks
1.	P. Rajani	25 Yrs	Unmarried daughter	Gurudwara Road Kharida, Ward No. 11, Kharagpur.	
2.	P. Nannu	22 Yrs,	Son	-Do-	
3.	P. Baby	19 Yrs.	Unmarried daughter	-Do-	
4.	P. Leela	18 Yrs,	-do-	-Do-	
5.	P. devaki	15 Yrs,	-do-	-Do-	

(viii) On 4.2.10 (A-7) ASI, KGP (T) P.S. intimated the DPO that the employee P. R. Rao went missing from 09.11.2002.

(ix) On 29.03.2010(A-8) the DRM (P)/KGP requested Superintendent of Police, Medinipore (P) to issue a report on missing.

(x) On 1.6.2010 (A-8) the P.P.O. was issued in favour of applicant endorsing the last date of service of employee as 12.11.2002.

(xi) On 12.04.2011 her prayer for employment assistance without reference to any application was turned down without assigning any reason.

4, The order impugned reads as under:

Sub:- Your application for your  
compassionate appointment.

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Your case for employment assistance on compassionate ground with all details was put up, but the competent authority did not agree to consider the case.

This is for your information.

Asst. Personnel Officer.  
S.E. Railway, Kharagpur.

(xii) Suit No.324 of 2011 before the Civil Judge (Junior Division) was decreed (A-10) as under :

*It is hereby declared that this Court draws judicial presumption as to the death of P. Ramana Rao.*

(xiii) On 6.3.13, (A-11) the following order was issued :

Sub. :- *Employment Assistance on Compassionate Ground in favour of Kum Ranani, D/o Sri P. Ramana Rao, Ex: Helper Gr-I Under SE(AC) KGP missing since 12.11.2002.*

Ref: *Your appeal dated 03.05.2011.*

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B

As per official record i.e. Medical Card of ex-employee Sri P. Ramana Rao, Ex: Helper Gr.1 Under SE(ACOKGP issued on 05 01 1979, name of son and wife had been recorded as Nannu and P. Radha Devi as 05 (five) years & 18(eighteen) years old which means date of birth of son Sri Nanu supposed to be in the year 1974.

P Ramana Rao has been stated to be missing since 12.11.2002. As such Sri Nanu or you could have applied for EA On CG on 12.11.2004 i.e. after completion of 02 years from the date of missing of Ex-employee. But you applied for employment assistance on compassionate ground in favour of yourself on 09.09.2009 i.e. almost after 07(seven) years from the date of missing of ex-employee which is regretted and accordingly communicated you vide this office letter of even no dated 12.04.2011.

The Divisional Competent authority therefore came to the conclusion that there is no further scope to re-consider the case.

This disposes your appeal.

Divl Personnel Officer.  
For Sr. Divl Personnel Officer.  
S.E. Railway/Kharagpur

- (xix) On 4.9.14 (A-12) applicant further represented to the Sr DPO.
5. The respondents in their reply have justified the rejection by citing the following decisions,

They have submitted as under :

Km. P. Rajani made an appeal before the railway authority seeking for employment assistance on compassionate ground being the eldest daughter of the missing on 9<sup>th</sup> September, 2009 for the first time i.e. seven(7) years after employee went missing.

- (I) In the case of P. K. Ramachandran -vs- State of Kerala and Anr. J.T. 1997 Vol. 8 SC 189, the hon'ble Supreme Court of India held that :

*" The law of limitation may harshly affect a particular party but it has to be applied with all its vigor when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the Hon'ble High Court was, thus, neither proper nor judicious. The order condoning the delay, therefore, cannot be sustained."*

- (II) In another case of S.S.Rathore -vs- Union of India and Others A.I.R. 1990 SC 10, the Hon'ble Apex Court has held that the repeated representations do not extend the period of limitation.
- (III) The Hon'ble Apex Court in Karnataka Power Corporation Ltd through its CMD and Another -Vs- K. Thangappan and Another, 2006 (4) SCC has held that mere making of representations can not justify delay.
- (IV) According to State of Gujarat and others -vs- Arvind Kumar T. Tiwari and Another (2012) 9 SCC 545, it is the settled legal proposition that compassionate appointment cannot be claimed as a matter of right. It is not simply method of recruitment. A claim to be appointed on such a ground has to be considered in accordance with the rules, and regulations or administrative instructions governing the subject.
6. Ld. Counsel for the applicant would echo the grievance of the applicant that despite making her repeated prayers she has been made to wait for so long. The respondents have arbitrarily refused her prayer on the ground of delay which is arbitrary and unjust.
7. Per contra the Ld Counsel for the respondents would vehemently oppose consideration on the ground of delay.
8. Ld Counsel was heard and materials on records were perused.

8. It was noticed that the applicant, way back in 2004 sought for employment assistance. Her prayer for settlement dues of grant of employment assistance could be considered only when her father was considered missing w.e.f. 9.11.02 by the authorities and PPO was issued. The delay in consideration could in no way be attributed to the applicant. Rather a promise was all along held out to her, and she was asked to furnish various documents, time to time again. The rejection of her case on the ground of delay was, therefore, vindictive, arbitrary and malafide.

9. In the aforesaid backdrop I quash the impugned order and remand the matter back to the authorities to issue appropriate order untrammelled by earlier rejection, within eight (8) weeks from the date of receipt of a copy of this order.

OA is thus disposed of. No costs.

  
(Bidisha Banerjee)  
Judicial Member

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