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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 350/00256 of 2017

-And-

In the matter of :

An application under Section 19 of
the Central Administrative Tribunal
Act, 1985 ;

-And-

In the matter of :

1. Mst. Rabia wife of Late
Luthful .

2. Safikul Alam son of Late
Luthful

Both at Village - Madna, P.O.
Raghunathpur, P.S. - Suti, District
- Murshidabad, Pin - 742223

..... Applicants

- Versus -

1. The Union of India service
through the ~~Secretary~~, General
Manager, Eastern Railway, 17, N.S.
Road, Kolkata - 700001 and also
having its office at 3, Koilaghate
Street, Kolkata - 700001.



corrected copy
sent 7.4.18
MS. Kalyani
Shasthary
Advocate
9.4.18

2. The ^{Secretary} ~~Chairman~~, Railway
Board, Rail Bhavan, New Delhi -
110001.

3. The Divisional Railway
Manager, Eastern Railway, Howrah
Division, Howrah-711101.

4. The Senior Divisional Personal
Officer, Eastern Railway, Howrah
Division, Howrah-711101.

5. The Divisional Railway
Manager, Malda Division, P.O.
Jhaljhalia, District - Malda, Pin -
732102.

6. The Senior Divisional
Personnel Officer, Eastern Railway,
P.O. Jhaljhalia, District - Malda,
Pin - 732102.

..... Respondents

1. PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS BEING MADE :



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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. OA 350/00256/2017

Date of Order: 10/8/2018

Coram : Hon'ble Mr. A.K.Patnaik, Judicial Member

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Mst. Rabia & another Vs. Union of India & Ors.

For the Applicant : Ms. K.Bhattacharyya, Counsel
For the Respondents : Mr. B.K.Roy, Counsel

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ORDER

A.K.PATNAIK, MEMBER(Judl.):

Heard. M.A.No.147 of 2017 for joint prosecution is allowed and thus disposed of.

2. In this Original Application under Section 19 of the A.T.Act, 1985, the applicants have prayed for the following reliefs:

- a) To issue mandate to the respondents to consider the representation dated 07.11.2016 of the applicant No.2 forthwith.
- b) To issue mandate to the respondents authorities to produce the entire records relating to this case before this Hon'ble Tribunal so that conscionable justice may be done;
- c) To pass such other order or further order or orders as to your Lordships may deem fit and proper;
- d) Leave may be granted to file this application jointly under Rule 4(5)(a) of CAT Procedure Rule 1987.

3. Applicant No.1 is the wife of deceased railway employee who died on 9.6.1973. Applicant No. 2 is the son of the Applicant No.1. It is the case of the applicant no.1 that after the death of her husband she requested the Railway authorities to reserve a job for her only son (applicant No.2) for appointment on compassionate grounds on attaining majority. On 01.04.1991 applicant No.1 made an application to Respondent No.5 for giving appointment on compassionate ground in favour of her son, applicant no.2 followed by another



representation dated 21.4.1997. Be that as it may, after a protracted correspondence, applicant no.2 was intimated on 09.05.2008 that after 4 years, his application could not be considered being time barred. Thereafter, successive representations were made to the railway authorities, the last one being dated 7.11.2016. Since the applicants did not receive any response, they have approached this Tribunal seeking for relief as aforementioned.

4. On the other hand, the respondents by filing a counter-reply have contested the claim of the applicants. According to Respondents prior to three months of the death of the railway employee, applicant No.2 was born. Since the death of her husband applicant no.1 did not approach the authorities for appointment on compassionate ground and only in the year 1991, compassionate appointment was sought in favour of applicant no.2. On 25.01.1992 the case was considered and disposed of in terms of letter of Railway Board dated 7.4.1983 which clearly stipulates five years limitation. Thereafter vide letter dated 9.5.2008, applicant no.2 was informed that his case is time barred by 34 years.

The relevant extract of letter dated 9.5.2008 reads as follows:

"Sub: Appointment on compassionate ground of Sri Safikul Alam,
S/o. late Lootful, Ex-Gangman/PWI/DGLE
Ref: Your application dated 24.6.04

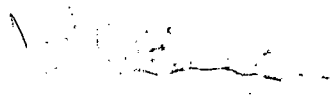
This is to inform you that after considering all aspects, the competent authority has not considered your appointment on compassionate ground as it is time barred. The death of the ex-employee having occurred more than 34 years ago".

5. The Respondents have therefore, prayed that the O.A. being devoid of merit is liable to dismissed.



6. I have considered the rival submissions at considerable length. I have also gone through Misc. Application No.146/2017 for condonation of delay as well as the written notes of arguments filed by both the sides. From the pleadings of the parties, it is quite clear that the applicants have not challenged the legality and validity of communication/order dated 09.05.2008 as quoted above. Secondly, unless communication/order dated 09.05.2008 is quashed and set aside, there is no scope for the Tribunal to delve further into the matter. Therefore, the prayer of the applicants for direction to respondents to consider and dispose of representation dated 07.11.2016, in my considered view, does not stand to reason. However, on a perusal of Misc. Application for condonation of delay, nothing is forthcoming as to why the applicants did not take timely action in challenging the order dated 09.05.2008 instead, approached the Tribunal seeking direction for disposal of representation dated 07.11.2016 in the year 2017. In view of this, I am not at all convinced that the applicants have offered a reasonable explanation for condonation of delay within scope and meaning of the A.T.Act and Rules.

7. Having regard to what has been discussed above, I am of the opinion that the present O.A. is hopelessly barred by limitation and therefore, the same is dismissed. With this, M.A.No.146/2017 also stands dismissed. No costs.


(A.K.PATNAIK)
MEMBER (Judl.)

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