

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Miscellaneous Application No. 406/2017
In
ORIGINAL APPLICATION NO. 415/2017.

Dated this the 19th day of December, 2017.

CORAM:- HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)

- 1) Smt. Chandrakanta Liladhar
Meshram, Age: 52 years,
R/at Matoshri Ramabhai
Ambedkar Nagar, Bhusawal- 425 201.
- 2) Satish Liladhar Meshram,
Age: 33 years, R/at Matoshri
Ramabhai Ambedkar Nagar,
Bhusawal- 425 201.

...Applicants

(By Advocate Shri Vicky Nagrani)

Versus

- 1) Union of India,
The General Manager,
Central Railway,
CSTM, Mumbai - 400 001.
- 2) Divisional Railway Manager,
Central Railway, CSTM,
Mumbai - 400 001.

...Respondents

(By Advocate Ms. Sangeeta Yadav)

Reserved on :- 05.12.2017.

Pronounced on:- 19.12.2017.

O R D E R**Per:- Hon'ble Shri R. Vijaykumar, Member (A)**

This Application was filed on 19.06.2017 by the mother of a deceased railway employee and his brother, DOB:- 19.07.1982, who was 30 years, 10 months and 16 days at the time of decease of his brother on 05.06.2013 while he was on duty. **The father of the deceased and his brother was then a railway employee** at Bhusawal Division in the rank of Master Craftsman and retired on 30.04.2015. The family thereafter applied for appointment of the brother on 15.10.2015 by which time, the brother and second applicant in this case who was more than 33 years old. That application was rejected by respondents in their impugned order **No. BB/P/Wel/16/RCG/III/4039 Priority-1, dated 03.05.2016[Annexure A-1]**, taking the view that the applicant No.2 was not dependent on his brother and, therefore, he was not eligible for appointment on compassionate grounds. This application was thereafter filed with the delay

of 1 year, 47 days from the date of this letter, seeking the following reliefs.

"a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same quash and set aside the impugned order dated 03.05.2016.

b) This Hon'ble Tribunal may further be pleased to direct the Respondents to grant Compassionate Appointment to the Applicant No.2 will all consequential benefits.

c) This Hon'ble Tribunal may further be pleased to direct the Respondents to pay 18% P.a. interest on the delay of release on settlement dues despite the same being sanctioned way back in 2014.

d) Cost of the Applicant be provided for.

e) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

2. The main contention of the applicants is that they were dependent upon their unmarried brother who had deceased as a Railway employee in the job of Loco Pilot and that they had not received any pensionary benefits nor their settlement dues. They had accordingly applied

for appointment on compassionate grounds on 11.04.2015. They have also filed an MA No. 406/2017 seeking condonation of delay on the grounds that Applicant No. 1 was illiterate and was not aware of the process of filing an Original Application. Further, they have also could not arrange the funds for filing the present OA and hence they requested that the delay of 1 year, 47 days may be condoned, in view of their special circumstances.

3. Respondents in their reply have explained that delays are fatal to the application. In this case, the claim of applicant No.1 that she was illiterate and that she was not aware of proper procedures is clearly false because her husband was a senior Railway employee and the family had received about Rs. 20,00,000/-(20 lakhs) as compensation for the deceased son. Further, the father of the deceased employee was a Railway employee at the time of decease with a Grade Pay of Rs. 4200/- and retired in April 2015. They were, therefore,

not so indigent as to be unable to secure the funds needed for filing this application. They have also stated that, at the time of death, applicant was neither dependent on brother nor was he within the age limit of 31 years as required under the orders of the Railway Board in regard to such cases of compassionate appointment.

4. The respondents have argued that the father of the deceased employee was employed at Bhusawal Division and superannuated on 30.04.2015 and it was only after that on 15.10.2015, that an application was made for appointment on compassionate grounds. This was made 2 years and 4 months from the date of decease of the employee, whereas the rules permitted applications within a period of 5 years.

5. The Respondents have further stated that the settlement dues in respect of the deceased son were sanctioned in the year 2014 and paid thereafter.

6. At the insistence of learned counsel for

applicant, the issue was heard on the Miscellaneous Application for condonation of delay. The critical requirement for applying for appointment on compassionate grounds is promptness and any delay harms the claim of the applicants that they are indigent and unable to survive without adopting the tactic of approaching the employees/employers for appointment on compassionate grounds. There is considerable weight in the argument of respondents that the family of the deceased employee including his father who retired two years after him and they were well aware of the rules. Moreover, it is for the applicant to be alert to their claims in regard to the rights they presume accrued to them.

7. With regard to the funds available, it is clear that the retirement benefits and pension of the father and the Ex-gratia compensation given upon the demise of the son for substantial amounts and the lack of funds cannot be excused to seek condonation of delay. During arguments,

learned counsel for the respondents observed that the Applicant No.2 was an Engineer and this was not rebutted by the learned counsel for applicant. There are, therefore, absolutely no merits to support the condonation of delay. It is also noted, at this stage, that as argued by the respondents, there is no evidence that the Applicant No.2, who was a brother of the deceased, ever appeared in the Railway records as a dependent on his brother and it would be assumed in the normal course that he was a member of the others family and was dependent on his father who was already employed in the Railways.

8. In these circumstances, OA is dismissed for laches given that there is no merits to even consider condoning the delay.

9. The disturbing aspect of this application is that the applicants seem to have taken a frivolous view of the generosity of the respondents to grant appointment on compassionate grounds and have not only abused by enabling provisions in this manner but has also taken

request to filing this application before this Tribunal with such frivolous grounds. In these circumstances, it is considered appropriate to impose a cost of Rs. 5000/- on the applicants which shall be deposited with the Central Administrative Tribunal Bar Association, Mumbai.

(R. Vijaykumar)
Member (A)

Ram.