

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00330/18**  
**With**  
**MA/050/00155/18**

Reserved on : 23.04.2019  
Pronounced on: 26.04.2019

**C O R A M**  
**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

1. Smt. Karima Khatoon, Widow of Late Suaib Ansari.
2. Md. Jawed Ansari, Son of Latre Suiab Ansari.

Both residents of Village- Khalasi Mohalla, PO- Jhajha, PS- Jhajha, District- Jamui, Pin- 811308.

.... Applicant.

By Advocate: - Mr. G. Bose

-Versus-

1. The Union of India, through the General Manager, Eastern Railway, 17 Netajee Subhash Road, Kolkata, Pin- 700001.
2. Chief Personnel Officer, Eastern Railway, 17, Netajee Subhash Road, Kolkata- 700001.
3. The General Manager, East Central Railway, Hajipur- 844401.
4. The Senior Divisional Personnel Officer, East Central Railway, Mughalsarai- 232101.
5. The Divisional Railway Manager, East Central Railway, Mughalsarai- 232101.
6. The Divisional Railway Manager, Eastern Railway, Mughalsarai- 232101.
7. The Senior Divisional Personnel Officer, Eastern Railway, Mughalsarai- 232101.
8. The Loco Foreman, E.C. Railway, Mughalsarai-232101.

.... Respondents.

By Advocate: - Mr. S.K. Raj

**O R D E R**

**Dinesh Sharma, A.M:-** The OA is seeking a direction to the respondents to consider the case of appointment of applicant no. 2 on compassionate

ground after the death of the father of applicant no. 2 Late Suaib Ansari who expired on 29.09.1984. At the time of death of Shri Suaib Ansari, the applicant no. 2 was aged about 5 years. On 29.12.1989 applicant no. 1 applied before Sr. DPO, Eastern Railway, Mughalsarai to appoint her son (applicant no. 2) to any suitable post on attaining majority. She again made an application on 09.02.1998 for such appointment since the son had attained the age of majority and had also passed Class-VIII examination. The Railway authorities did not pay any attention to the aforesaid representation and also did not give any reply to either of the applicants. The applicants pursued the matter through public representatives and alleges that they were informed about the case of applicant no. 2 being considered by the respondents. The applicants have requested for directing the respondents to consider the case of applicant no. 2 for appointment on compassionate ground. Applicants have also mentioned that after the death of the employee, his widow is getting only a pension of Rs. 9,500/- but she has not been paid any of the reitral dues. However, the applicants have not sought any specific relief on that account. The applicants have also alleged that the Hon'ble Apex Court has held "in catena of cases" that if the government is at fault the question of limitation does not arise.

2. The applicants have filed an MA/050/00155/2018 requesting for condonation of delay in filing the OA stating that no reply was given to her representations. Only when she made an application under RTI Act she was informed about her case being time barred. The applicants also allege that applicant no. 1 is suffering from cancer and she has got no other source

of income other than family pension. This being a continuous cause of action the question of limitation does not arise. However, if the court feels that there is any delay it may be condoned.

3. The respondents, in their written statement, have alleged that the OA is hopelessly time barred. The husband of applicant no. 1 died in the year 1984. She did not make any application with regard to her minor son within one year. Her statement about having made such representation in 1989 is also false. The applicants have not properly explained the delay, on a day to day basis, for condonation of delay in her MA and therefore it cannot be accepted. Regarding non payment of retiral dues the respondents have mentioned that the railway quarters allotted to late Suaib Ansari remained under unauthorized occupation of his family from 30.09.1984 to 07.01.1991. A damage rent of Rs. 43,447/- is due which has not been deposited as yet. On the other hand, the amount of DCRG (Rs. 7,141/-) and GIS (Rs. 20,526/-) have been calculated for payment in favour of his family which can be paid to them on their clearing the outstanding dues.

4. After going through the pleadings and hearing the arguments of both the parties, it is clear that the main issue in this matter is whether the respondents can be directed to issue appointment on compassionate ground, on account of an employee who died in harness in the year 1984. The applicants have tried to put the blame for this delay on the respondents and even have the audacity to allege that there has been no delay. I find this claim to be barred by the period of limitation by a huge margin. It is true that the Government cannot take advantage of the law regarding limitation

if, as in the case cited by the applicants [ **S.R. Bhanrale Vs. Union of India** in Civil Appeal No 9489 of 1996 reported in AISLJ I-1997(1) 14)], the claim is as clear and unambiguous as it is in the above mentioned case. The present case is for compassionate appointment which, even in the best of circumstances, cannot be claimed as a matter of right. I, therefore, find no merit in this OA. Hence, the OA and MA are dismissed. No order as to costs.

**[ Dinesh Sharma ]**  
**Administrative Member**

**Srk.**