

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00715/2017

Jabalpur, this Monday, the 05th day of August, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Smt. Suman Bai, W/o Late Devi Singh Rahuvanshi, aged about 37 yrs. (Mother), Mo – 9165206362.

2. Rajesh Rahuvanshi, S/o Late Devi Singh Raghuvanshi, aged about 18 yrs (Student)

Both R/o Seera Wada, Post Gondlwada, The. Bnkhedi, District Hoshangabad (MP) 461001 **-Applicants**

(By Advocate – Shri H.R. Bharti)

V e r s u s

1. Union of India through the General Manager, West Central Railway, Indira Market, Jabalpur MP 482001.

2. The Divisional Railway Manager, West Central Railway, Indira Market, Jabalpur MP 482001 **-Respondents**

(By Advocate – Shri Arun Soni)

ORDER (O R A L)

By Navin Tandon, AM.

The applicants have filed this Original Application for grant of compassionate appointment to applicant No.2.

2. They have also filed MA No.200/00537/2017 for condonation of delay in filing this Original Application.

3. The brief facts of the case are as under:

3.1 The deceased late Devi Singh Raghuwanshi was working as Monthly Rated Casual Labour (MRCL) with the respondent department. He died on 19.09.1992.

3.2 The applicant No.1 submitted an application dated 07.12.2010 (Annexure A-6) for grant of compassionate appointment to her son, i.e. applicant No.2.

3.3 The respondents, vide order dated 09.04.2012 (Annexure A-15), have rejected her application with the reasons that she has submitted her application in the year 2010, i.e. after a lapse of more than 18 years of death of the employee. It was also mentioned that the deceased was not regularised on the date of his death and, therefore, he was not a regular employee of the Railways.

4. The applicants have, therefore, sought for the following reliefs:

“8.1 That, may kindly be quashed Annexure A-15 dt. 09.04.2012 which is rejection order of the respondents with direction to the respondents for provide job to the applicant son immediately for the ends of justice.

8.2 Any other relief is sought if this Hon’ble Court deems fit and appropriate may kindly be also award in favour of the applicant.”

5. The respondents, in their reply, have raised the preliminary objection that the applicant is challenging the order dated 09.04.2012 after more than 5 years and 4 months, without explaining the delay. In their para-wise reply, they have submitted that the very first application for compassionate appointment has been submitted by applicant No.1 on 07.12.2010, i.e. after a lapse of 18 years from the date of death of the employee. Further, after rejection of her application on 09.04.2012, she has filed the instant Original Application after 5 years and 4 months, which is hopelessly time barred.

6. We have heard the learned counsel for the parties and perused the pleadings available on record.

7. It is undisputed that the deceased Railway servant died on 19.09.1992, while working as MRCL. It is also not in dispute that applicant No.1 had made an application dated 07.12.2010 (Annexure A-6) for grant of compassionate appointment to her son with the reasons that he was minor at the time of death of his father.

8. The applicants have earlier approached this Tribunal in Original Application No.740/2011, which was disposed of on

20.09.2011 (Annexure A-13) with the direction to the respondents to consider and decide the representation of applicant No.1, as per rules and pass a speaking order. Accordingly, the respondents, vide order dated 09.04.2012 (Annexure A-15), have rejected the claim of the applicant *inter alia stating* that the claim was not submitted within the time prescribed as per Para V of the Railway Board's Master Circular No.16 dated 01.03.1985. Also, the deceased was Monthly Rated Casual Labour (MRCL) and was not a regular Railway employee.

9. The reason stated in the O.A is that the applicant No.2 was minor at the time of death of his father. Therefore, as soon as second applicant attained the age of majority in the year 2010, they have approached the respondent department on 07.12.2010 and thereafter filed OA No.740/2011. In their application for condonation of delay, it has been stated that an oral assurance was given by the authorities regarding consideration of their case. Since nothing could be heard till 2014, they have approached one counsel Smt. Uma Rani Sharma, who died on 15.06.2016 due to illness.

10. We may note that Section 21 of the Administrative Tribunals Act, 1985 (for short '**the Act**') deals with limitation for filing O.A. before this Tribunal, which reads as under:-

“21. Limitation.- (1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-

section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

11. A bare reading of the Section 21 of the Act makes it clear that the limitation has been prescribed for filing O.A. before this Tribunal as one year from the date of cause of action. The same can be extended by another six months from the date of filing of appeal if the same is not decided. It has been further mentioned in the Act that if the Original Application is not filed within time as stipulated in Section 21 of the Act, then a Misc. Application for condonation of delay should be filed by explaining delay in not filing the Original Application within the limitation.

12. In the instant case, the deceased MRCL employee expired on 19.09.1992, whereas the applicants approached the respondent authorities for grant of compassionate appointment to second applicant on 07.12.2010, i.e. after a delay of almost

18 years from the date of death of the deceased. The respondents have rejected the claim of the applicants on 09.04.2012 (Annexure A-15) by referring to Para V of the Railway Board's Master Circular dated 01.03.1985 according to which an application for compassionate appointment has to be filed within five years from the date of death of the deceased. Further, the applicants after rejection of their application on 09.04.2012, have approached this Tribunal on 30.08.2017, i.e. after a lapse of more than five years, without there being any satisfactory reasons for not approaching this Tribunal within the limitation period. Hence, we find that the instant Original Application is hopelessly time barred.

13. In view of the above, at this belated stage, no relief can be granted to the applicants. Accordingly, the present O.A is dismissed being barred by limitation. No costs.

(Ramesh Singh Thakur)
Judicial Member

am/-

(Navin Tandon)
Administrative Member