

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7205 of 2018**

- Raju Kumar Sahu, S/o Late Smt. Rajmaniya Bai, Aged about 35 years, Resident of Bus Stand, Kali Mandir Road, Post – Manedragarh, District – Korla (C.G.) Civil & Revenue District Korla (C.G.)

---- Petitioner**Versus**

1. South East Central Railway through Division Railway Manager, South East Central Railway, Bilaspur, District Bilaspur (C.G.)
2. Senior Division Officer, South East Central Railway, Bilaspur, District Bilaspur (C.G.)
3. Senior Divisional Personnel Officer, South East Central Railway, Bilaspur (Recruitment Section), District Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Shri Vivek Chopda, Advocate.
For Respondents	:	Shri Abhishek Sinha, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****Per Ajay Kumar Tripathi, Chief Justice****30.10.2018**

1. Heard counsel for the Petitioner and counsel for the Railways.
2. Writ has been filed against the order dated 18.07.2018 passed by Central Administrative Tribunal, Jabalpur Bench, Circuit Siting Bilaspur (hereinafter referred to as the 'Tribunal'). In the Original Application, the following prayer was made:

“8.1 That, the learned Tribunal may kindly be pleased to call the entire records pertaining to the case of the applicants.

8.2 That, the learned Tribunal may kindly be pleased to direct the Respondent/Non-Applicants to decide the case of the petitioner for compassionate appointment within such times frame as this Tribunal may deem fit in the facts and circumstances of the case.

8.3 That, the learned Tribunal may kindly be pleased to direct the respondents to grant compassionate appointment to the applicant, in the facts and circumstance of the case.

8.4 Cost of the Original Application be awarded.

8.5 Any other relief which the learned Tribunal deem fit and proper may be awarded.”

3. Facts are that the Petitioner claims himself to be adopted son of late Rajmaniya Bai who died in harness in 16.12.2005. After the death of his so-called mother, the Petitioner applied for compassionate appointment on 07.08.2009. The claim for appointment was rejected vide order dated 05.11.2009. Thereafter, only in the year 2017, he prefers to file OA No.203/00305/2017. The Tribunal considered the matter in following words and dismissed the application:

“9. In the matters of **Union of India Vs. M.K. Sarkar**, (2010) 2 SCC 59, the Hon'ble Supreme Court has held thus:

16. A court or tribunal, before directing “consideration” of a claim or representation should examine whether the claim or representation is with reference to a “live” issue or whether it is with reference to a “dead” or “stale” issue. If it is with reference to a “dead” or “stale” issue or dispute, the court/tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or tribunal deciding to direct “consideration” without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect.”

“10. We may also note that the purpose of the compassionate appointment is to tide over the crises faced by the family on account of sudden demise of the bread-winner. It cannot be said to be another source of recruitment and also as a right to get appointment in the Government service. The Hon'ble Apex Court in the case of **Santosh Kumar Dubey Vs. State of Uttar Pradesh** (2009) 6 SCC 481, has held as under:

11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service.”

“11. Since the O.A. was not filed within one year from the date of cause of action, an application for condonation of delay, as provided under Section 21 (3) of the Administrative Tribunals Act, 1985, was required to be filed explaining the reason for not approaching the court within prescribed period, which has not been done in this case and there is a delay of almost eight years. It is well settled that if a person is not vigilant about his right by not approaching the Court against the order then the court can not help him by entertaining the petition after a long delay. Therefore, this Original Application deserves to be dismissed on the ground of delay and laches alone.”

4. Merely because it is the case of the Petitioner that he had been writing letters and reminding the Respondent authorities with regard to consideration for compassionate appointment, that by itself cannot be a reason for considering his claim for compassionate appointment at such belated stage because both the principles which have been culled out from the two Supreme Court decisions are on the point and directly against the claim of the Petitioner.
5. We do not find any infirmity with the order which requires a rectification.
6. The writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge