

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.9671 OF 2010

ORAL ORDER: (per Hon'ble Sri Justice Suresh Kumar Kait)

1. Vide the present petition, the petitioner has challenged the order dated 24.11.2009 passed by the Central Administrative Tribunal, Hyderabad in O.A.No.104 of 2009, whereby the application filed by the petitioner was disposed of by passing the order as under:

“It is not disputed that this Tribunal gave a direction that if the copy of the representation dated 28.2.1985 is produced by the applicant, it should be taken, and if the first representation is dated 24.1.1989, the respondents need not consider the request of the applicant as it is barred by limitation. The learned Counsel for the applicant strongly argued that the limitation will not apply to the cases of compassionate appointment since there is a specific direction of this Tribunal. I am unable to agree with the contention of the learned Counsel for the applicant. Since the representation dated 28.2.1985 was not produced by the applicant before the respondents, the respondents are justified in rejecting case of the applicant as time barred. Therefore, I do not find any merit in this application.

The O.A. is, therefore, dismissed as devoid of merits with no order as to costs.”

2. Brief facts of the case are that the husband of the petitioner was working as Loco Khalasi since 15th May, 1953 and while in service, he was medically de-categorized on 12.8.1982 and ultimately, he died on 31.10.1984 and thereafter, in the month of February, 1985, the petitioner submitted a representation to the railway authorities for compassionate appointment to one of her sons. The receipt of the said representation was acknowledged by the railway authorities. Thereafter, she submitted

another representation dated 24.1.1989 referring to the earlier representation and requesting the railway authorities to consider the case for compassionate appointment. The said representation was rejected on the ground that the representation for compassionate appointment was not made within five years from the date of medical de-categorization of her husband through proceedings dated 29th July, 2004. However, the said proceedings were not communicated to the petitioner immediately. After knowing about the rejection order, the petitioner approached the Central Administrative Tribunal, Hyderabad Bench by filing O.A.No.502 of 2006. Vide order dated 8.8.2007, the learned Tribunal directed the respondents to verify from the records whether there was any representation dated 28th February, 1985 filed by the petitioner, and if there is any such representation, the respondents are bound to consider the representation on merits in accordance with the rules then in existence. Liberty was granted to the petitioner to produce any evidence before the respondents to show that she had made a representation on 28.2.1985. In case, it is found that there was no representation dated 28th February, 1985 and the 1st representation is dated 24.1.1989, the respondents need not consider the request of the petitioner as it is barred by limitation. In pursuance of the said order, the petitioner submitted a representation dated 23rd April, 2008 along with the copies of postal acknowledgements wherein the receipt of the representation of the petitioner was acknowledged by the railway authorities. However, the respondents rejected the case of the petitioner through letter dated 18th September, 2008 on the ground that the acknowledgements produced by the petitioner are prior to 28th February, 1985, and the petitioner has not produced the representation dated 28th February, 1985.

3. The fact remains is that the petitioner had not filed the copy of the representation made in the year 1985. She filed a representation dated 12.10.2008 and in the light of the direction issued by the Tribunal vide order dated 8.8.2007 in O.A.No.502 of 2006, the case of the petitioner was rejected.

4. It is not in dispute that the husband of the petitioner died in the year 1984. At that time, her son was just 14 years and he got majority in the year 1988. As noted in the order dated 8.8.2007 passed in O.A.No.502 of 2006, as the petitioner stated that she made a representation on 28th February, 1985, the Tribunal directed the respondents to consider the representation made by the petitioner.

5. The learned Counsel appearing on behalf of the petitioner submits that the representation was not of dated 28th February, 1985, however, the representation dated nil was received by the respondents on 28.2.1985.

6. It is pertinent to note that the learned Tribunal vide its order dated 8.8.2007 in O.A.No.502 of 2006 made it clear that in case, it is found that there was no representation dated 28.2.1985, and the 1st representation is dated 24th January, 1989, which is time barred, the respondents need not consider the request of the petitioner.

7. If that is the position, the petitioner ought to have filed an application for clarification of the order dated 8.8.2007 passed in O.A.No.502 of 2006. However, the petitioner failed to do so. As stated by the respondents, there was no such representation dated 28th February, 1985, and so, this fact is admitted by the petitioner.

8. In view of the facts recorded above, we find no illegality and perversity in the order passed by the Tribunal.

9. Finding no merits, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE SURESH KUMAR KAIT

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 6th February, 2018.
Nn.



HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.9671 of 2010

(Oral order delivered by the Hon'ble Sri Justice Suresh Kumar Kait)



06/02/2018

Nn.