

Reserved**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**
CIRCUIT SITTINGS:GWALIOR**Original Application No.202/00942/2016**Jabalpur, this Friday, the 28th day of February, 2020**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER**
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER1. Smt. Goma Prajapati,
W/o Late Shri Pyarelal Prajapati
Age 59 yrs.2. Arjun Singh,
S/o Late Shri Pyarelal Prajapati
Age 42 yrs.
Both R/o Village Jahangirpur,
Janpad Panchayat
Morar, Distt. Gwalior
(By Advocate –**Shri Himanshu Pandey**)**-Applicants****V e r s u s**1. Union of India, through its Secretary,
Ministry of Home Department
Government of India, North Block,
New Delhi 1100012.The B.S.O. A.G.E. "T" Garrison Engineer
P.O. Morar Gwalior 474011

3. The G.E.O. M.E.S. Morar Gwalior 474011

4. The E.E. M.E.S. Morar
Gwalior 474011**- Respondents**(By Advocate –**Shri Akshay Jain**)
(Date of reserving the order:05.02.2019)

ORDER**By Ramesh Singh Thakur, JM:-**

The applicants have filed this Original Application seeking appointment to applicant No.2 on compassionate grounds.

2. Brief facts of the case are that the applicant No.1 is the widow of late Shri Pyarelal Prajapati who was posted on the post of Mason in the respondent department. The husband of applicant No.1 died on 04.01.2003 leaving behind his wife, four sons and three daughters. The applicant No.1 has submitted an application dated 02.07.2003 for compassionate appointment for his son (applicant No.2) to the respondent department. Vide letter dated 23.07.2004, the documents submitted by the applicant No.2 were directed to be verified, but despite of the said letter nothing has been done till today. The applicant No.2 again submitted his representations dated 13.05.2009 (Annexure A/4 colly.) for getting compassionate appointment but nothing has been taken into consideration in the matter. The respondent-authority

has not taken any action they constrained to submit again representation dated 17.12.2012. The applicants have preferred a Writ Petition No.226/2011 before the Hon'ble High Court Bench at Gwalior. The same was dismissed for want of jurisdiction vide order dated 20.11.2013 with liberty to applicants to avail the remedy before competent forum. The applicants filed O.A. No.202/711/2015 before this Tribunal which was disposed of with liberty to file fresh application. Hence this Original Application.

3. The applicant has prayed for the following reliefs:-

“8.1 That the Hon'ble Tribunal may kindly be pleased to allow the application and the respondents authorities may kindly be directed to consider the case of the applicants and give him appointment on the ground of compassionate appointment.

8.2 That, any other relief which this Hon'ble Tribunal deems fit in the facts and circumstances of the case may kindly be awarded.

8.3 Cost of the petition may kindly be awarded.”

4. The respondents have filed their reply to the O.A. It is submitted by the respondents that the husband of the applicant No.1 and father of applicant No.2 late Shri

Pyarelal Prjapati was working as Mason in the respondent-department and expired on 04.01.2003. The applicants had applied for compassionate appointment. The representation has already been rejected vide detailed and speaking order dated 18.10.2007 which has been communicated to the applicant. The copy of order dated 18.10.2007 is annexed at Annexure R/1. It has been submitted by the respondents that while filing writ petition before the Hon'ble High Court of Madhya Pradesh the applicant has not disclosed the fact about rejection of his representation for compassionate appointment in year 2007. The applicant has also not disclosed as to when the order passed by Hon'ble High Court came into their knowledge, in absence of which the delay of about 7 years, from the date of order of High Court and about 10 years from the date of rejection of representation Annexure R/1 cannot be condoned. The committee for compassionate appointment while considering the

application of the applicants has considered all the aspects as per the rules and policy in vogue.

5. Heard the learned counsel for both the parties and perused the pleadings and documents annexed with the O.A.

6. From the pleadings it is clear that Shri Pyarelal Prajapati was posted on the post of Mason with the respondent department and died on 04.01.2003 leaving behind his wife, four sons and three daughters. The applicant No.1 has submitted an application dated 02.07.2003 for compassionate appointment for his son (applicant No.2) to the respondent No.1. Vide letter dated 23.07.2004, the documents submitted by the applicant No.2 were directed to be verified. Thereafter applicant No.2 submitted representations for getting compassionate appointment. It has been specifically submitted by the replying respondents that the representation moved by the applicants has already been rejected vide detailed and speaking order dated 18.10.2007 which has been

communicated to the applicant. The copy of order dated 18.10.2007 is annexed at Annexure R/1. It has been specifically submitted by the replying respondents that the applicants had approached the Hon'ble High Court of Madhya Pradesh and has not disclosed regarding the fact of rejection of the representation for compassionate appointment in the year 2007. When the order passed by Hon'ble High Court came into their knowledge, in absence of which the delay of about 7 years, from the date of order of Hon'ble High Court and about 10 years from the date of rejection of representation (Annexure R/1) cannot be condoned. The committee for compassionate appointment while considering the application of the applicants has considered all the aspects as per the rules and policy in vogue.

7. The applicant in this Original Application has only submitted that the representation was submitted on 13.05.2009 (Annexure A/4) for getting compassionate appointment has not been considered in the matter.

Subsequently further representation was submitted on 17.12.2012 and ultimately moved to Hon'ble High Court and thereafter before this Tribunal. As no rejoinder has been filed to the reply filed by the replying respondents. As per Annexure R/1 which has been addressed to applicant No.2 is dated 18.10.2007, whereby the case of the applicants has been taken up by the respondent-department and detailed order has been passed. So from the pleadings of the Original Application, this fact regarding the rejection letter (Annexure R/1) is not there. Needless to say that repeated representation does not extend the limitation from the date of cause of action. Though the various representations has been made by the applicants but law is well settled in the case of **S.S. Rathore vs. State of Madhya Pradesh** 1989 (4) SSC 582 wherein it is held that repeated representations shall not give the fresh cause of action. Hon'ble Supreme Court has held that "*Submission of just a memorial or representation*

to the head of the establishment shall not be taken into consideration in the matter of fixing limitation.”

8. In the present case, there is a delay of 7 years after the order of Hon’ble High Court and about 10 years from the date of rejection as per Annexure R/1. There is no whisper of any word regarding the explanation in delay. There is a specific provision for limitation for filing O.A. under Section 21 of the Administrative Tribunal Act 1985 but the applicants has not explained whatsoever the delay for approaching this Tribunal. Moreover, law is settled that repeated representations will not give fresh cause of action particularly when the period for limitation for filing Original Application as prescribed. Under 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."

9. As per Annexure R/1 the respondent-department has passed the detailed order and in Para 4 and 5 of this order the reasons have been given. It has been specifically envisaged in Para 4 and 5 that the Board of Officers of the

Army Headquarters after taking into count of each aspect referred in Para 4 of this order has been considered along with the other candidates. Board of Officer has not recommended the case of applicants for appointment on compassionate grounds. The need for immediate assistance to the heir of the deceased employee is to overcome the financial emergency and crises. Needless to say that appointment on compassionate grounds is not a matter of right. The respondent-department has considered the matter of the applicants and has rejected on 18.10.2007 (Annexure R/1) and the reasons has been prescribed.

10. In view of the above, we do not find any reasons to interfere with the action of the respondent-department.

11. Resultantly, this Original Application is dismissed.

No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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