

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.466 of 1995

NEW DELHI THIS THE 28th DAY OF SEPTEMBER, 1995.

HON'BLE MR.B.K.SINGH, MEMBER(A)

1. Smt.Raj Kumari,
W/o Late Shri Dayal Chand
R/o H.No.2F/20, Sector-2
Faridabad, Haryana.

2. Shri Jagdish
S/o Late Shri Dayal Chand
R/o H.No.2F/20, Sector-2
Faridabad, Haryana. ...

Applicants

(SHRI A.K.SINGH PROXY COUNSEL
FOR SHRI ASHOK, COUNSEL)

vs.

1. Union of India,
through Under Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi.

2. The Director
Directorate of Printing
Government of India
Nirman Bhawan
New Delhi. ..

Respondents

ORDER

Sh.B.K.Singh:


OA No. 466/1995 is directed against the order dated 22.11.1991 issued by respondent No.2 and order dated 27.9.1993 issued by respondent No.1. In both these orders, the respondents have regretted their inability to appoint applicant No.2 on compassionate grounds. Applicant No.2 is now practically more than 27½ years old. He is the son of deceased Dayal Chand. It is an admitted fact that the father of applicant No.2 died in 1989 when applicant No.2 was not eligible for employment as LDC. The employment also was not granted as LDC since there were rules prescribed for such employment by Department of Personnel and Training. He started pressing his claim in

B

1991 when he passed 10 + 2 Examination. The widow of the deceased Dayal Chand made an application on 19.5.1989 to the respondents to appoint applicant No.2 as LDC or against any other suitable post claiming in the application that he is entitled to be appointed as LDC on the basis of the fact that his father was holding that post and, therefore, equity demanded that he should be appointed as LDC on compassionate grounds. She also referred to OM dated 17.2.1988. This is Annexure 'E' to the paper book. A copy of the application is enclosed as Annexure 'F' to the paper book.

2. It is admitted that the widow has got retiral benefits and the eldest son is already employed. The eldest son has also filed an affidavit to the effect that he is living separately from the mother and the younger son.

3. A perusal of the OA clearly indicates that the cause of action arose immediately after the death of the father of applicant No.2 in 1989. The law regarding compassionate appointment has been laid down by the Hon'ble Supreme Court in a catena of judgements beginning with the State of Rajasthan Vs.Chander Narain Verma decided on 26.9.1993 wherein it was held that the courts cannot direct the Government to appoint a person on compassionate ground to a post for which he is ineligible under the rules. The law now has been laid down by the Hon'ble Supreme Court in two landmark judgements and these are (1) Life Insurance Corporation of India v.Mrs.Asha Ramchandra Ambekar & Anr(JT 1994(2) S.C.183); and (2) Umesh Kumar




(9)

Nagpal v. State of Haryana & others (JT 1994(3) S.C.525).

In these two judgements, the Hon'ble Supreme Court has categorically laid down that the courts should not be guided by their impulses and emotions but should be strictly guided by the cold logic of law which is the epitome of all wisdom. The Hon'ble Supreme Court specifically directed that the courts should not issue directions for appointment on compassionate grounds in a mechanical and routine manner without taking into consideration the financial condition of the person concerned. The compassionate appointment is made when the family is on the verge of penury and is likely to suffer starvation but for an appointment given in the form of succour for immediate relief. In the present case, the family has been able to maintain itself for more than 8 years without any help from the respondents and without any compassionate appointment. The law in both the cases clearly lays down that the compassionate appointment is to be given only when the family is in indigent circumstances and not otherwise.

4. In addition to this, the application is a belated one and is barred by delay and laches. The cause of action arose in 1989 and the applicants have approached this Tribunal in 1995 i.e. after a lapse of practically 6 years. The Administrative Tribunals Act, 1995 provides the statutory period of one year if no appeal or representation has been filed and 1½ years if an appeal or representation has been preferred to the respondents. This view was expressed by the Hon'ble Supreme Court in the case of **S.S.Rathore Vs.State of Madhya Pradesh (AIR 1990 SC 10)**. It was further clarified in the



case of **State of Punjab Vs. Gurdev Singh** (1991) 4 S.C.C 1) that an aggrieved party has to approach the court for relief within the statutory period prescribed since after the expiry of that period the court cannot grant the relief prayed for. In the case of **Ratam Chandra Samanta & ors v. U.O.I. & Ors.** ((1993 (3) S.C. 418), the Hon'ble Supreme Court held that delay and laches deprive a person of his right and if the right is lost, the remedy available to him is also lost. The law has been further clarified in the case of **Ex. Capt. Harish Uppal Vs. Union of India & ors.** (JT 1994(3) S.C. 126) ^{where it says} / that the rules of adversary emerge by reason of delay on the part of the aggrieved party moving the court. It is trite saying that delay defeats equity and the courts should help those who are vigilant and do not slumber over their rights. Those who sleep over their rights their claim should not be entertained. It has been been laid down that expedition is the sine qua non for such claims. If the party chooses to sleep, the court should decline to interfere. This Tribunal does not have inherent power like that of Hon'ble Supreme Court under Articles 136 and 142 of the Constitution. This power is limited only to Section 21 of the Administrative Tribunals Act, 1985 and a person should approach the Tribunal within one year if no appeal or representation is filed and if an appeal or representation is filed, he should wait for six months and then approach the Tribunal for relief. The maximum statutory period prescribed under Section 21 is 1½ years. This OA suffers from delay and laches and is dismissed in limine.


(B.K. SINGH)
MEMBER (A)