

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00154/2021

DATED THIS THE 23rd DAY OF FEBRUARY 2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

HON'BLE SHRI RAKESH KUMAR GUPTA MEMBER (A)

G.A.Manjunatha,
S/o Late G.K.Ananthachari
Aged 41 years,
Occ: Unemployed,
R/o No.155, Vijayanagara,
1st Stage Near SVM School,
Doddamandiganahalli,
Hassan 573 201.

.....Applicant

(By Advocate Shri M.V.Krishna Mohan)

Vs.

1.The Union of India
through The Secretary
Department of Revenue,
Ministry of Finance
North Block,
New Delhi-110 001.

2.The Commissioner of Central Excise,
Bangalore I Commissionerate,
CR Building,
Queens Road,
Bangalore-560 001.

3.The Commissioner
Central Excise and Custom,
Mysore Commissionerate,
Vijayamarg,
Sidhartha Nagar, Mysore.

..Respondents

ORDER (ORAL)

Per: SURESH KUMAR MONGA, MEMBER (J):

Applicant's father Shri G.K.Ananthachari had been working as Hawaldar in the Office of Assistant Commissioner, Central Excise, Dharward Division, Hubli. Unfortunately, he died while in services on 5.9.2003. He was survived by a son (applicant herein) and a daughter apart from the widow.

2. The applicant herein made a representation on 18.6.2011 and claimed appointment on compassionate grounds. His representation was considered and it was found that the family has received terminal benefits of Rs.12 lakhs and is in possession of 2 houses, one site and one acre of land. After taking into consideration the financial condition of the family, the applicant's case for appointment on compassionate grounds was declined by the respondents vide office order dated 1.8.2012.

3. After a period of about 3 years, the applicant again submitted a representation with the respondents and requested for appointment on compassionate grounds. Pursuant to said representation, the respondents had issued a letter dated 16.9.2015 stating therein that the fact with regard to rejection of his case has already been conveyed through letter dated 1.8.2012.

4. After a deep slumber, the applicant has now filed the present original application, laying down therein a challenge to Office Order dated 1.8.2012 and the letter dated 16.9.2015 with a further prayer for issuance

of direction to respondents to consider his request for compassionate appointment.

5. Along with the Original application, a miscellaneous application has also been filed for condonation of delay of 5 years 4 months 29 days stating therein that the Original application could not be filed within the limitation period due to financial constrains.

6. Learned counsel for the applicant, apart from reiterating the facts stated in the Original application as well as in the miscellaneous application for condonation of delay, argued that the applicant's case for grant of employment on compassionate grounds was not considered by the respondents in correct perspective, as the financial condition of the family of the deceased has not been assessed properly. Learned counsel further submitted that due to financial constraints, even the original application could not be filed by the applicant within the prescribed period of limitation.

7. We have considered the contentions raised by learned counsel for the applicant and perused the record.

8. Indisputably, the applicant's representation for appointment on compassionate grounds was declined by the respondents vide office order dated 1.8.2012. Before taking such a decision, the respondents have taken into consideration the financial status of the family of the deceased government employee. It has come up on record that the family had received terminal benefits of Rs.12 lakhs and is in possession of 2 houses, one site and one acre of land. Apart from this it has been found that a sum of Rs.9595/- is being received towards family pension

every month. The applicant himself has been found to be earning Rs.5000/- P.M. He is a married man.

9. The respondents after taking into consideration all the aforesaid factors objectively, arrived at a conclusion and declined the appointment to applicant on compassionate grounds on 1.8.2012. Thereafter, for about a period of 3 years, the applicant remained silent. On 22.6.2015, he submitted another representation making therein a request for appointment on compassionate grounds. Acting promptly, the respondents gave a communication to applicant on 16.9.2015 stating therein that his case for compassionate appointment has already been declined and an intimation in this regard was also given on 1.8.2012.

10. The applicant still did not opt to challenge the orders passed by the respondents within the prescribed period of limitation. After an inordinate delay of 5 years 4 months 29 days, the present Original Application has been filed with a miscellaneous application for condonation of delay stating therein that due to financial constraints he could not file the Original Application before this Tribunal within the prescribed period of limitation. In the facts and circumstances of the case, such a statement, in our considered view, cannot be construed to be a sufficient reason to condone an inordinate delay of 5 years 4 months 29 days in filing the Original Application as the financial status as ascertained by the respondents has not been disputed by the applicant.

11. Even otherwise, on merits also, we do not find any reason to quash the order dated 1.8.2012 and the letter dated 16.9.2015 and to

issue directions to respondents to grant compassionate appointment to the applicant.

12. The applicant's case was considered by the respondents and after having objective assessment of the financial condition of the family of the deceased Government employee, the family was not found to be in an indigent condition.

13. The whole objective to grant compassionate appointment to a dependent of a deceased Government employee, is to enable the family to tide over the sudden crisis. The object is not to give a post to a member of the family in place of the deceased Government employee. Mere death of an employee in harness does not entitle his family to such a benefit of employment.

14. The Hon'ble Supreme Court in Umesh Kumar Nagpal Vs. State of Haryana, 1994(4) SCC 138 has ruled that the appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment, nor any other consideration is permissible. Neither the governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interest of justice and to meet certain contingencies and one such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury.

15. The principles laid down by the Hon'ble Supreme Court in Umesh Kumar Nagpal (supra) have been followed consistently by the

courts and the Tribunals and recently the Hon'ble Supreme Court in State of Himachal Pradesh Vs. Shashi Kumar 2019 (3) SCC 653, while summarizing the law on the subject has again reiterated those principles. By now it is a well established principle that the compassionate appointments are not a source of recruitment and they are made to provide succour to the family of an employee who dies in harness.

16. In view of above discussions, Miscellaneous Application No.87/2021 seeking condonation of delay of 5 years 4 months 29 days in filing the Original Application is hereby dismissed.

17. Since the Miscellaneous Application for condonation of delay has been dismissed, therefore, the Original Application also stands dismissed being barred by limitation.

18. However, there shall be no orders so as to costs.

(RAKESH KUMAR GUPTA)
MEMBER (A)

(SURESH KUMAR MONGA)
MEMBER (J)

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