

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A.No.1912/92

Date of decision: 9-7-1993.

Smt. Raj Kali & Another

...Applicants

V E R S U S

Union of India & Others

...Respondents

CORAM:

THE HON'BLE MR. J.P.SHARMA, MEMBER(J).

For the applicants

...Shri V.P.Sharma, Counsel

For the respondents

...Smt. Raj Kumari Chopra, Counsel

JUDGMENT

The husband of the applicant Late Shri Durga Parshad died in harness on 8-6-1968 while working in Ordnance Factory, Muradnagar. He has been survived by the widow - applicant no.1, aged 70 years; four sons including the applicant no.2; and one married daughter. In March, 1986, applicant no.1 as widow of the deceased made a representation to the Minister, Defence ^{Production} ~~Protection~~, Ministry of Defence, stating that she has a family consisting of six members and she is feeding her children by doing manual labour. She has been making efforts for the employment of her son Mr. Prahlad Kumar but she could not achieve success. She made another representation in May, 1988 that two of his sons in their tender age had gone out and settled themselves outside after marriage. They have no concern with the family. She is looking after her two of the sons. She is making efforts for the employment of her son.

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She has no other land or property. Her son Prahlad Kumar is about twenty years and has passed 9th class, so he may be considered for appointment on compassionate grounds. The respondents by their letter dated 25-10-89 informed the applicant that her request cannot be accepted because compassionate appointments are offered as an immediate assistance to the decedent family by providing out of turn employment to one of the ward. Since the death of the employee has occurred more than twenty one years back, as such, the fulfilment of the condition of immediate relief to the family cannot be justified. It appears that the applicant has made another representation on 31st December, 1991 and she did not succeed in her efforts, she filed the present application on 24-7-92. The notices were issued to the respondents who contested this application on a number of grounds.

2. I have heard the learned counsel for the parties at length and perused the record. The contention of the learned counsel for the applicant is that Prahlad Kumar was minor at the time of death of late Shri Durga Parshad and so application for compassionate appointment was not made earlier. The learned counsel for the respondents stated that the application is hopelessly delayed. Firstly, the applicants have no vested right for getting compassionate appointment ^{/and} even if there is any such supposed right, then the

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delay defeated their right. She has referred to the latest authority of the Hon'ble Supreme Court in the case of RATAN CHANDRA SAMANTHA VS. UNION OF INDIA, reported in JUDGMENT TODAY 1993 (3) SC 418. The Hon'ble Supreme Court held that delay itself deprives a person of his remedy available in law. The Court has not to make a roving inquiry into the matter. A person who has lost his remedy by lapse of time loses his right as well. Further, in the case of STATE OF PUNJAB VS. GURDEV SINGH - 1991 (4) SCC 1, the Hon'ble Supreme Court held that even in service matters the applicant has to come for redress of the grievance within limitation. The contention of the learned counsel that Prahlad Kumar was minor cannot be accepted to grant the relief. The applicants have alleged that there are other sons also, namely, Subhash Chand, Salac Chand and Kailash Chand who are also elder to applicant no.2. No effort was made for moving for compassionate appointment for any of these sons. Even if, it is accepted that Subhash Chand and Salac Chand have left the home in tender age and settled outside after marriage, then there ~~is~~^{is} still remains another elder son Kailash Chand. No explanation has been furnished as to why applicant no.1 did not claim for appointment of Kailash Chand on compassionate grounds. Secondly, in column 4.2, only the age of applicant no.1 as ⁷⁰~~17~~ years is mentioned but the ages of other sons have not been mentioned. It is, therefore, not established as to when the Prahlad Kumar became major. It is stated by the learned counsel that in the year 1986, Prahlad Kumar was 21 years of

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age. However, even if it is taken to be a fact, he attained majority at the age of 18 years, i.e., in 1983 and at that time also no request was made to the respondents for giving compassionate appointment to Prahlad Kumar, applicant no.2. Thirdly, the impugned order was passed in October, 1989 and according to the provisions of Section 21(1) of Administrative Tribunals Act, 1985, the applicants should have come within one year from the date of this Order. However, this application has been filed in July, 1992 which is hopelessly barred by time. The learned counsel for the respondents has referred to a number of decisions of the Tribunal in the case of OA 1367/92 - RAM RATI AND OTHERS VS. UNION OF INDIA & OTHERS, and OA 2438/92 - RAM DULARI VS. UNION OF INDIA. In both these cases which were decided on the same date, i.e., 23-3-93, the relief was disallowed on the grounds of delay and laches. In the case of S.S.RATHORE VS. STATE OF M.P., AIR 1990 SC 10, the Hon'ble Supreme Court has clearly laid down the law of limitation in the matters coming before the Tribunal holding that repeated representations do not add to the period of limitation. Therefore, any representation made after the impugned order dated 25-10-89 cannot be taken into account for extending the period of deputation.

3. The learned counsel for the applicant has referred to the authority of SUSHMA GOSAIN VS. UNION OF INDIA, reported in AIR 1991 SC 469. The learned counsel also referred to the

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authority of SMT. ANGOORI DEVI VS. UNION OF INDIA & OTHERS, reported in 1991 VOL.I ATJ 336. I have considered the law on point. The authorities of the Hon'ble Supreme Court laid down that the compassionate appointment to the ward of deceased employee should be made immediately as it will be helpful in rehabilitating the deceased family. There is no doubt that a compassionate appointment should be offered to one of the wards of the deceased employee but when the family has lived for about twenty one years without any such help of compassionate appointment, it cannot be said that now after a score of years, the family needs help for compassionate appointment. Thus, the authorities relied upon by the learned counsel for the applicant do not help the case at all.

4. The deceased employee Durga Parshad died on 8-6-68 and since then the family is continuing to live without any further help in the form of compassionate appointment from the respondents. The theory averred in the application that two of the elder sons have left and settled elsewhere cannot be taken to be a factual statement. Thus, it cannot be said that the family was in indigent circumstances at the time of the death of the deceased employee or that still the family continues in the same state of affairs.

5. The learned counsel for the applicant has also referred to a number of other decisions annexed to the application but it is not required to multiply the authorities on the point by referring them individually. Every case has its own facts.

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When the applicants did not disclose as to when the applicant no.2 became major or as to why applicant no.1 did not choose to apply for compassionate appointment of other elder sons or why at the time when Prahlad Kumar became major, the request was not made to the respondents, then the relief sought at this belated stage cannot be granted.

6. In view of the above facts and circumstances, the application is hopelessly delayed and is also devoid of merit and is dismissed leaving the parties to bear their own costs.

for name

(J.P.SHARMA)
MEMBER (J)

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