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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER, 1127 OF 1997

ALLAHABAD, THIS THE 6 th DAY OF March, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. Smt. Mangoo Devi,  
wife of Late Pyare Lal,  
Tent Vendor,  
C.O.D., Kanpur.  
Ticket No.287,  
r/o 23, Lal Kurti Bazar Chawani,  
Kanpur-208 004
2. Sudheer Kumar,  
s/o Late Pyare Lal,  
Ticket No.287,  
Tent Vendor, C.O.D. Kanpur  
r/o 23, Lal Kurti Bazar, Chawani,  
Kanpur. ....Applicants

(By Advocate : Shri R.K. Asthana)

V E R S U S

1. Commandant, C.O.D.,  
Kanpur.
2. Director General of Ordnance Services  
05-8C Master General of Ordnance Branch  
Army Head Quarters D.H.Q.P.O.,  
New Delhi - 110 011 ....Respondents

(By Advocate : Shri J.N. Sharma)

O R D E R

By this O.A., applicant has sought the following  
relief:

"issue a writ, order or direction in the nature of  
mandamus to issue employment letter to applicant  
No.2 either on compassionate grounds or direct  
employment being named in list 1994 as S.C."

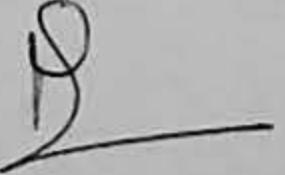
2. It is submitted by applicant that his father gave an application on 16.11.1993 for giving employment to his son Sudhir Kumar (Annexure-3) on the post of labour in COD Kanpur, who was already registered with employment exchange. Applicant was even called for interview vide letter dated 18.06.1994 (Annexure-5) but inspite of his belonging to SC Category and availability of post he had not been called to join this denying him the benefit of being employee's ward. His father died on 27.11.1993 while in harness, therefore, applicant's mother applied for grant of compassionate appointment in favour of her son as 3 sons had separated from the family having no connection with them and this was the only son living with the mother and wife of deceased employee. Vide letter dated 11.03.1994, the applicant was informed that since 2 of his brothers are already employed in COD as such he cannot be given benefit of dying in harness Rules (Annexure A-10). The mother again applied stating other sons not living with her. Once again respondents repeated the same reply through letter dated 26.12.1994 (Annexure 12 & 13). Applicant had applied yet again and finally on 11.05.1996 the commandant rejected his claim and also informed him that no further correspondence shall be entertained (Annexure A-I). It is stated by applicant that he filed appeal to defence Minister, Director S.C. Welfare Department and Director General of Ordnance (Annexure A-2 & 2A) but of no avail therefore, finding no other remedy applicants filed this O.A. in October, 1997 claiming the above relief(s).

3. Respondents have opposed the O.A. on the ground of limitation itself and have stated that since O.A. is barred by limitation, it is liable to be dismissed on this ground itself. On merit they have submitted applicant cannot claim compassionate appointment or otherwise, as a matter of right. Vacancies are released by the Head-quarter for compassionate appointment and there is no such reservation for SC/ST/OBC in vacancies meant for compassionate appointment. They have further submitted that the cases of all candidate seeking compassionate appointment are placed before Board of Officers who select the candidates as per policy laid down and applicant's case has been rejected as two of his brothers are already employed in COD.

4. I have heard both the counsel and perused the pleadings. It is seen that the claim of applicant for compassionate appointment was rejected on 11.03.1994, therefore, cause of action if any had arisen in favour of applicant in 1994 and as per Section 21 of A.T. Act, 1985, he ought to have filed the O.A. within 1 year from the date of rejection of his claim. Law is well settled that repeated unsuccessful representations do not extend the period of limitation as held by Hon'ble Supreme Court in the Judgment of S.S. Rathore reported in AIR(1990)SC 10. The O.A. is therefore, clearly barred by limitation as in subsequent letters respondents only reiterated their earlier stand as such/is liable to be dismissed on this ground itself. However, on merits also it is seen that the fact that both the brothers of applicant no.2

are employed in COD is not at all disputed and if that be so this case is fully covered by the Hon'ble Supreme Court is Judgment reported in JT 2001(4) SC 73 S.A.I.L. Versus Avadesh Singh wherein it is held that if one heir is already in employment, compassionate appointment cannot be provided to others.

5. Even otherwise by now the law on the question of compassionate appointment is well settled that nobody can claim compassionate appointment as a matter of right nor as a line of succession. A person only has a right of consideration. If after consideration of case, respondents have taken a decision that applicant is not entitled to grant of compassionate appointment as both the brothers are already employed in COD. I do not think it calls for any interference as the ground taken by respondents is valid and in accordance with Supreme Court's judgment. Thus, O.A. is found to be devoid of any merit as well. Accordingly O.A. is dismissed with no order as to costs.

  
Member-J

shukla/-