

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1070 of 2001.

Allahabad this the 12th day of March, 2003.

Hon'ble Mr. A.K. Bhatnagar, Member-J.

1. Manoj Kumar son of Shori Lal
R/o 326/11, Shastri Nagar,
Meerut U.P.
2. Smt. Susheela Devi w/o Shori Lal
Ticket No.2217/QCE, Quarter
No.326/11 Shastri Nagar, Meerut.

.....Applicants.

(By Advocates: Sri H.P. Pandey/Sri A.D. Prakash)

Versus.

1. Union of India
through Secretary,
Ministry of Defence,
Raksha Bhavan, New Delhi.
2. Director General
Ordnance Factory 10-A,
Auckland Road, Calcutta-1.
3. General Manager,
Ministry of Defence,
Ordnance Factory Board,
Ordnance Factory Nagar, Ghaziabad.

.....Respondents.

(By Advocate : Sri R.C. Joshi)

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In this O.A., filed under section 19 of Administrative Tribunals Act 1985, the applicants have prayed for direction to quash the impugned orders dated 20.06.2000 and 23.02.2000 passed by respondents No.2 and 3 respectively and further prayed to issue a direction to consider the case of the applicant afresh on compassionate grounds, under the provisions of Dying in Harness Rules.

2. The facts of the case, in short, are that the father

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of the applicant No.1 was employed as H.S. Grade-1 in the respondent's establishment who died during the course of employment on 24.06.1994, leaving behind his widow, three married daughters and two sons. After the death of his father, the applicant No.1 applied for appointment on compassionate grounds on 23.08.1994 (Annexure A-3). Applicant No.2 also gave her consent by sending a letter to the respondents dated 25.08.1994 (Annexure A-4). The request for compassionate appointment of the applicants was considered and rejected, vide order dated 20.06.1995 and its intimation was also given to the mother of applicant No.1 regarding it on following grounds:

1. Since you have your own house.
2. Major/Married sons/daughters are not considered as dependents on the deceased employee family.
3. The employee had got Rs.166,899.00/- as terminal benefits and family is receiving monthly pension Rs.1880/- per month, hence the appointment on compassionate grounds cannot be claimed as a matter of right (Annexure A-1)".

Against the rejection order dated 20.06.1995, the applicant No.2 preferred an appeal in September 1995 (Annexure A-5) to the General Manager (respondent No.3) and a copy of it was also forwarded to the Director General, Ordnance Factory, Calcutta (respondent No.2) stating therein all the facts about her income and dependents etc. The applicant once again filed an application on 11.07.1998 for compassionate appointment of her son but no reply was given by the respondents. The application is Annexure A-6. When no communication was received by the respondents they approached through Sri. R.L. Bhatia, Member of Parliament by moving an application who wrote a letter to the Defence Minister

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of India and there to reply was sent to Sri R.L. Bhatia by Defence Minister informing him about the rejection of the appeal of the applicant No.2 which is stated to be communicated to her on 25.03.2000. Aggrieved by this order the applicants filed this O.A.

3. The learned counsel for the applicants submitted that the action of the respondents is discriminatory and is in violation of principle of natural justice. Learned counsel for the applicants also submitted that the action of the respondents by not considering the applicant's claim for compassionate appointment is against the Rules. The applicants belong to scheduled caste community and have no source of income and are in dire need of employment. This aspect has been totally ignored by authorities concerned while passing the order.

4. Resisting the claim of the applicants respondent's counsel filed counter affidavit and submitted that the Competent Authority has fully examined and considered the case of the applicant, and since it did not come into merit consideration for appointment on compassionate grounds, it was rejected and applicant was informed accordingly vide letter dated 20.06.1995. Besides the applicant No.2 has been given Rs.166,899.00/- as terminal benefits and family pension of Rs.1880/- per month. Applicant No.2 is also having her own house so it cannot be said that the family is in financial crises. Moreover, the appointment on compassionate grounds cannot be claimed as a matter of right. Learned counsel for the respondents further submitted that the O.A. is highly barred by limitation as it has been filed on 14.03.2001 challenging the order dated 20.06.1995 after about lapse of more than five years and is liable to be dismissed on this ground alone. Moreover no delay condonation application has been filed by the applicants.

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5. Learned counsel for the respondents invited my attention on C.A. I, II, III and further submitted that the applicants sent a representation for compassionate appointment on 15.07.1995 which was considered and replied vide letter dated 20.08.1995 (Annexure CA-1). The applicant again represented on 14.12.1999 which was again replied by respondents vide letter dated 22.12.1999 (Annexure CA-2).

6. Learned counsel for the applicants has placed reliance on the judgment of Hon'ble Allahabad High Court in case of State Bank of India and others Vs. Ram Piyarey reported in A.W.C. 2001 page 1508 and judgment of Hon'ble High Court in case of Rahul Tandon Vs. Regional Manager, Allahabad Bank, Allahabad and others reported in E.S.C (Alld) 2003 page 1127.

7. I have heard counsel for the parties and perused the records.

8. Admittedly the request for compassionate appointment of the applicants was rejected by respondent No.3 and cause of action arose on 20.06.1995. The applicants should have sent a representation after this and if no action was taken by the respondents within a period of six months he could have filed this O.A. within one year after expiry of period of six months i.e. in 1997.

9. I have also gone through Annexure A-2, a letter of Defence Minister dated 14.02.2000 which had been sent to Sri R.L. Bhatia, Member of Parliament informing about the fate of applicant's case for compassionate appointment. In relief clause, the applicants have prayed for quashing the impugned orders dated 20.06.2000

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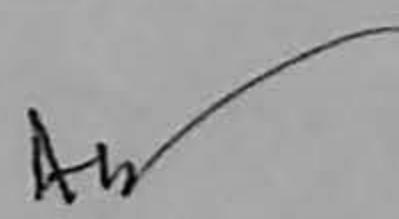
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and 23.02.2000 and I find no such orders are passed in these two dates are on the record. Annexure A-1 is dated 20.06.1995 and Annexure A-2 is dated 14.02.2000. Anyhow without going into this controversy, it is an admitted fact that the case of the applicants was first rejected on 20.06.1995 under intimation to the applicant No.1's mother. The other impugned letter dated 14.02.2000 (Annexure A-2) is only an information given to the Member of Parliament by the Defence Minister which is no order in itself. So there is no question of quashing this letter. It appears that the applicant has tried to take the shelter of this letter only in covering the period of limitation. It is well settled that filing of representation after representation will not enhance the period of limitation. Moreover no delay condonation application is filed by the applicants alongwith this O.A.

10. In view of the law laid down by the Apex Court in case of S.S. Rathore Vs. State of M.P reported in 1990 SCC(L&S) page 54 and in case of Ramesh Chand Sharma Vs. Udhamp Singh Kamal and Ors reported in 2000 (2) A.I.S.L.J page 89. It leaves no doubt that repeated representations do not cover the period of limitation and applications moved beyond the limitation period as provided under section 21 of A.I. Act 1985 should not be entertained in absence of delay condonation application. In the present case, no delay condonation application is filed alongwith O.A.

11. Considering the facts and circumstances of the case and after hearing the submissions made by counsel for the parties, I am of the view that this O.A. is liable to be rejected on the ground of limitation only, accordingly the O.A. is dismissed as grossly barred by limitation.

No costs.


Member-J.