

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 657 of 2004

Allahabad this the 21st day of July, 2004

Hon'ble Mr.A.K. Bhatnagar, Member (J)

Fasahat Ali Khan S/o Late MES/435830 SA Khan, R/o Mohalla:
Thotar, Masjid Khojey Walli, Rampur.

Applicant

By Advocate Shri Madan Singh

Versus

1. Union of India through Secretary, Ministry of Defence,
New Delhi.
2. The Chief Engineer(MES), Bareilly Zone, Bareilly Cantt.
3. The Board of Officers, HQ. Bareilly Zone, Bareilly Cantt.

Respondents

By Advocate Shri Saumitra Singh

O R D E R

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 praying for direction to the respondents to provide appointment to the applicant on compassionate ground. It is further prayed to direct the respondents no.2 and 3 to provide appointment to the applicant as Category 'C' employee in the respondents office within certain stipulated period.

2. The facts, in brief, are that father of the applicant had expired during the service period on 30.12.1998 while he was holding the post of Superintendent B/R-1, MES 435830, working in the Office of respondent no.2. The deceased

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✓ applicant's
employee left behind the applicant, ~~his~~ step mother, one unmarried sister and two minor brothers. The applicant applied for compassionate appointment on 30.03.2001. Since then applicant is filing representation after representation to the department but no action has been taken so far by the department. Hence, he filed this O.A.

3. Learned counsel for the applicant submitted that family of the applicant is facing miserable life and he is unable to maintain him and other member of the family, which is dependent only on the pension of deceased employee. Learned counsel further submitted that appointment on compassionate appointment is a beneficial legislation as such it should have been construed liberally with a view to implement the legislative intension. Learned counsel finally submitted that denial of compassionate appointment in the present case is clear cut denial of ✓ social and ✓ economic justice as enshrined in the Constitution of India. He placed reliance on following cases:-

- (i) Balbir Kaur and another Vs. Steel Authority of India Ltd. and Others (2000) 6 S.C.C. 493.
- (ii) Smt. Kanti Srivastava Vs. State Bank of India and Others 2003 (897) FLR 245.

4. Learned counsel for the respondents raised preliminary objection on the maintainability of the O.A. ✓ it ✓ as/is barred by period of limitation, and submitted that O.A. be dismissed on this ground alone.

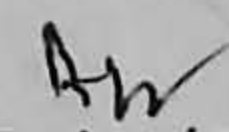
5. I have heard the learned counsel for the parties and perused the pleadings available on record.

600 It is/^{an} admitted fact that applicant's father Late Shri S.A. Khan died in harness while serving as Superintendent B/R-1, MES 435830 in the respondents establishment on 30.12.1998 and for the first time mother of the applicant-Samina Bi applied for compassionate appointment of her son Shri Fasahat Ali Khan on 07.06.2001, shown as annexure-2, which is an unsigned copy of the representation and there is no proof of its receipt in the office of respondents. I have also seen annexure-1 filed by the applicant, which is also a typed copy without any proof of its receipt in the department of applicant's father. The applicant has filed M.A.No.2689/04 for condoning the delay in filing the O.A. He has also filed representation dated 3.01.2003 for seeking compassionate appointment in place of his father. He has specifically ✓ for condoning the delay ✓ stated in the affidavit filed alongwith M.A./in filing the application in para-5 that several applications of the applicant are pending with the respondent no.2 for orders for appointment on compassionate ground, and the last application dated 03.01.2003 is still pending for orders. It is evident from the pleadings on record that applicant applied for compassionate appointment in 2001 and then in 2003 after a lapse of about more than two years after the death of his father, though he should have applied for compassionate appointment just after the death of his father. The applicant has shown his date of birth as 01.01.1970 in annexure-1, which clearly indicate that the applicant was more than 28 years of age at the time of death of his father who is said to have died on 30.12.1998 and he could have very well applied for compassionate appointment just after the death of his father in the year 1999 when the family

was in immediate need of help to tide ^{over} the crisis accrued due to sudden death of bread earner of the family. Admittedly, cause of action arose in December, 1998 when applicant's father expired while the O.A. has been filed on 28.04.2004 after a lapse of about more than 5 years. It is also admitted by the applicant in his pleadings that the applicant had been sending his representations after representation to the department and the last one was sent to the department on 03.01.2003, filed as annexure-1 alongwith delay condonation application. Even if the contention of the applicant is taken to be true that his first representation was filed in March, 2001, then he filed another representation on 03.02.2003 after a lapse of about 2 years of his first representation. It is well settled law that repeated representations sent to the department do not cover the period of limitation, as provided under Section 21 of the Administrative Tribunals Act, 1985. The case law cited by the counsel for the applicant is in no way helpful to the applicant as the facts and circumstances of this case is different to that of relied upon cases.

7. In view of the above discussions, I find force in the arguments of the learned counsel for the respondents that the O.A. is grossly time barred and is liable to be dismissed only on this ground at the admission stage itself. I have gone through the delay condonation application no. 2689/04 alongwith affidavit and I find no good and convincing ground to condone the delay in filing the O.A. Accordingly, the O.A. is dismissed at the admission stage itself as grossly time barred. No order as to costs.

/M.M./


Member (J)