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Reserved

Central Administrative Tribunal, Allahabad.

Registration O.A.No.991 of 1988

Mohd. Yakub Khan ... Applicant.

Vs.

Union of India and others ... Respondents.

Hon.D.S.Misra, AM
Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

This petition u/s.19 of the Administrative Tribunals Act XIII of 1985 was originally filed for directing the respondents to consider his various representations and decide his case for compassionate appointment according to the relevant rules. As a number of representations appeared to have been made by the applicant and in the relief clause, the dates of the representations were not specified and even for considering the question of limitation, it was necessary to have the dates of the relevant representations, the applicant was directed to seek necessary amendment to supply the dates of the representations in the relief clause. The applicant thereafter sought an amendment and instead of seeking the disposal of his all the representations he now seeks the disposal of his last representation dated 9.12.87 copy annexure 25 made by him to the General Manager Department of Telecommunication, U.P. Circle Lucknow.

2. The case of the applicant is that his father Mohd. Siddique Khan was posted as S.I. Telegraphs in the Kanpur Division and he died in harness in 1959. His mother was granted family pension in 1969. The applicant had worked as Mazdoor from 1971 to 1974 in the Telecommunication Department on muster roll basis but he was thereafter not given any work and due to ignorance, the applicant also did not make any representation for giving him an appointment in place of his father on compassionate grounds. The mother of the applicant, however, had made a representation on 14.2.1975. She had made further representations and the General Manager thereafter vide his letter dated 19.4.76 informed her that her applications were being sent to DET Kanpur. The DET Kanpur referred the matter to DET Allahabad vide his letter dated 11.5.76. The DET Kanpur had also asked the mother of the applicant for supplying

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certain information vide his letters dated 26.10.76, 24.3.77 and 2.5.77 which was duly supplied to him. The DET Kanpur vide his letter dated 1.8.79 had informed the General Manager Telecommunication that the necessary record was not available in his office and since then despite several subsequent representations dated 16.11.79, 2.3.80, 9.3.81, 7.2.82, 3.12.83, 9.5.84, 28.10.85, 7.4.86, 8.3.87 and 9.12.87 made by the applicant or his mother, the respondents did not pay any heed to them. The applicant has, therefore prayed that the respondents should consider and dispose of his last representation dated 9.12.87. ~~They~~ ^{He} have perhaps chosen this last representation because the petition filed on 17.8.1988 may be within time from its date.

3. The learned counsel for the applicant was heard on the question of limitation and his submission was that the petition is within time from the last representation and as the respondents did not dispose of the earlier repeated representations made by the applicant or his mother, he had no option but to file this petition. In our opinion, the purpose of the applicant for filing this petition is to get an appointment on compassionate ground and the mere reply or disposal of his last representation may not serve his purpose. In case the respondents refuse to ~~give~~ ^{give} him an appointment on any ground, he may have a cause of action to approach the Tribunal but in case they again give a reply to him that for want of record, they are unable to consider his case on merits, he may not have a right to file a fresh petition. In any case, the father of the applicant had died in 1959. It is not shown that the applicant was a minor at that time. In any case, as he worked in the Telecommunication Department as a Labour from 1971 to 1974, he is to be presumed to be a major at that time and he could apply for his appointment on compassionate ground at that time and in case of his getting unsuccessful, he could approach the Civil Court or the High Court for ~~his~~ ^{his} redress within a reasonable time but he did not do so and went on wasting his time. Even on the reply dated 1.8.79 of the DET Kanpur to the General Manager that the relevant record of the service of the applicant's father was not available in his office, the applicant

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did not approach the competent court within a reasonable time. The petition filed by him in the year 1988 is, thus, grossly time barred and the same cannot be treated to be within time merely because the applicant had been making representation after representation. In such a situation, we will not exercise our discretion in issuing any direction to the respondents for considering the claim of the applicant.

4. We, therefore, do not find it to be a fit case for adjudication.

5. The petition is accordingly dismissed in limine.

[Signature]
MEMBER(J)

Dated: 2.1.1989
kkb

[Signature]
2/1/89
MEMBER(A)