

OPEN COURT

**Central Administrative Tribunal Allahabad Bench
Allahabad.**

Allahabad This The 14th Day Of October, 2008.

ORIGINAL APPLICATION NO. 239 OF 2003.

Present:

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

Veenit Agrawal son of late Shri A.K. Agrawal, Resident of 25-B, Jawahar Nagar, Bareilly.Applicant

By Advocates : S/Shri Rakesh Verma/Shri R.P.S Chauhan

Versus

1. Union of India through Secretary Ministry of Agriculture New Delhi.
2. The President, Indian Council of Agricultural, Research Krishi Bhawan, New Delhi.
3. The Director, Veterinary, Research Institute Izzat Nagar, Uttar Pradesh.

.....Respondents

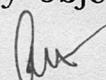
By Advocate: Shri B.B Sirohi.

O R D E R

I may deal with preliminary objection raised by Shri B.B Sirohi, Advocate counsel for the respondents at the fag end of the argument and virtual clause of hearing (i.e. just before dictation of Order in open Court) on the ground of O.A. being belatedly filed beyond prescribed period of Limitation of filing O.A. under A.T. Act, 1985. it is pointed out that there is a provision for condonation of delay under section 21 (3) of Administrative Tribunal Act 1985. There is no Application has been filed by the Applicant seeking Condonation of Delay

2. Learned counsel for the Applicant, contesting above objection (as preliminary objection) that no such preliminary objection can be raised by the respondents when case has been heard on merits.

3. Taking into account the time consumed in hearing the O.A. on merit, preliminary objection raised at belated



stage is deserve to be ignored. Apex Court/High Court have consistently held that delay is not to be explained arithmetically and liberal approach is to be adopted in considering condonation of delay. In the present case parties have exchanged pleadings and case has been heard on merit for more than half an hour. Delay shall be deemed to be considered. I proceed to hear the case on merit.

4. Applicant was one year old when his father died in harness on 11.6.1976, who was employed as Clerk in the Office of Respondent NO.1. Mother of the Applicant got re-married. Applicant was brought up by his maternal Grand Father. Applicant attained 18 years of age on 31.7.1993 and then applied for compassionate appointment.

5. By means of this O.A., Applicant seeks to challenge impugned order dated 5.8.2001 (Annexure No.12 to compilation 1) whereby- request of the applicant for compassionate appointment has been rejected stating that the applicant had done graduation and family pension is not payable since he attained 25 years of age. Impugned order shows that the Application for Compassionate Appointment of the applicant was considered by 'a council' in pursuance to the direction of this Tribunal vide order dated 18.1.2002 in O.A. NO. 1139 of 1996.

6. It has rejected Applicant's claim- precisely on the ground that claim of the applicant is belated one.

7. Essential ingredient for grant of compassionate appointment are no more re-Integra. These cases have to be decided as per relevant Rules of the concerned Department.

8. Learned counsel for the applicant referred to the Relevant Rules, copy filed as Annexure 1 to Compilation 2 of the O.A. According to the applicant, application for

compassionate appointment in case of a minor is to be considered when he attains majority.

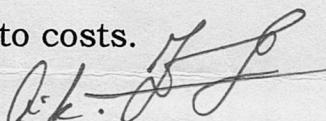
8. In view of the above statutory Rules, respondents had to entertain the claim of the Applicant and not to reject on this ground.

9. Moreover, impugned order shows that Council failed to take up consideration's their relevant aspects, which were not in dispute failed to observe to the relevant circumstances, namely the applicant was minor, aged about 1 years when his father died, Maternal Grand Father was not under no 'statutory obligation' to maintain and look-after the child, Grand Father had repeatedly written to the Department (documents are on record of the O.A.) that he was unable to look-after and maintain the Applicant, applicant was otherwise unable to maintain himself, etc. Council has conveniently ignored the representation of maternal grand father of the Applicant- which is relevant in the instant case.

10. In view of the above, view taken by the respondents and its Council (as contained in the impugned order) cannot be sustained and it deserves to be set aside.

11. Consequently, O.A. allowed, impugned order dated 5.8.2001 (Annexure 12) is set aside and the respondents/Council is directed to consider the case of the applicant afresh within a period of 2 months from the date of receipt of copy of the order in accordance with the law as indicated above.

12. O.A. allowed. No order as to costs.


(Justice A.K. Yog)

Member (J)

Manish/-