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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O. A. No. 269 of 2013

Cuttack this the 21<sup>st</sup> day of April, 2014

CORAM

HON'BLE SHRI A.K.PATNAIK, MEMBER (J)

HON'BLE SHRI R.C.MISRA, MEMBER (A)

.....

Gopal Krushna Panda, aged about 41 years, Son of Late Simanchal Panda,  
At/Po. Bhramarpur, Via-Khariaguda, Dist. Ganjam, PIN-761 029.

.....Applicant

(By the Advocate(s)-M/s.S.P.Mohanty, P.Lenka, M.Barik)

**-VERSUS-**

**Union of India represented through**

1. Secretary to Government of India, Department of Posts, Dak Bhawan,  
New Delhi-110 116.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda,  
Orissa.
3. Postmaster General, Berhampur Division, Berhampur, Dist. Ganjam.
4. Senior Superintendent of Post Offices, Berhampur (GM) Division,  
Berhampur-760001, Dist. Ganjam.
5. Inspector of Posts, Digapahandi Sub Division, At/Po. Digapahandi,  
Dist. Ganjam.

.....Respondents

(By the Advocate(s)-Mr.M.K.Das)

**O R D E R**

**A.K.PATNAIK, MEMBER (JUDL.):**

Tersely stated the case of the Applicant is that his father  
while working as SPM Chikiti Sub Post Office died prematurely

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on 22.07.2004 leaving behind his wife, three unemployed sons and two married daughters. As the elder brother of the applicant is staying separately after his marriage by making application appointment on compassionate ground was sought in favour of youngest son namely Harekrushna Panda who is a Science Graduate. The CRC considered his case but rejected vide letter dated 09.12.2009 on the ground that the family condition is not indigent. Thereafter, again by making application appointment was sought on compassionate ground in favour of the present applicant in the post of GDS. Another application dated 12.09.2012 was also submitted by the widow seeking appointment in favour of the present applicant. Alleging inaction, the instant OA has been filed on 08<sup>th</sup> April, 2013 by the applicant with a prayer to direct the Respondents to appoint the applicant in any GDS post on compassionate ground.

2. By filing MA No.303 of 2013 the applicant has prayed for condonation of delay in filing this OA belatedly on the grounds that though appointment on compassionate ground was applied soon after the death of the employee and the same was rejected by the CRC which was communicated to the applicant on 09.12.2009.

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Thereafter, the mother of the applicant has personally approached different postal authorities for providing employment assistance on compassionate ground and on the advice of the concerned postal authority she has submitted application seeking employment on compassionate ground in favour of the present applicant in any GDS Post which is still pending.

3. We have heard Mr.S.P.Mohanty, Learned Counsel for the Applicant and Mr. M.K.Das, Learned Additional CGSC for the Union of India appearing for the Respondents and perused the records. It is hardly necessary to emphasis that appointment on compassionate ground is not an alternate source of recruitment. It is merely an exception to the aforesaid requirement taking into consideration the fact of the death of employee while in service leaving his family without any means of livelihood. In such cases, the object is to enable the family to get over from sudden financial crisis. But such appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased employee. Once it is proved that in spite of the death of the breadwinner, the family survived and



substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Art. 14 of the Constitution.

4. In the present case the father of the applied died on 22.7.2004. Application seeking appointment in favour of the youngest son of the deceased was rejected on 09.12.2009. Thereafter applicant and her mother submitted application after three years of such rejection i.e. on 12.09.2012 for appointment in favour of the present applicant in GDS Post and only in 2013 the applicant alone filed the present OA seeking direction to the Respondents to provide him appointment on compassionate ground in any GDS post. Even without any appointment on compassionate ground indeed the family could survive for near about ten years. Mother of the applicant is also not one of the applicants in this OA. Though the applicant had knowledge of said rejection, he kept silent and did not take any action in respect thereof. No prayer has been made to quash the order of rejection. Law is well settled that an order, even if not made in good faith, is still an act capable of legal consequence. It bears no brand of invalidity on its forehead. Unless the necessary proceedings are taken by law to establish the

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cause or invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders. The truth of the matter is that the court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances.

5. As regards delay we may state that the grounds stated in the MA do not satisfy that here is a case where discretion to condone the delay is necessitated. In this connection it is profitable to place reliance on the recent decision on the point of delay and laches of the Hon'ble Apex Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and others Vrs T.T.Murali Babu**, AIR 2014 SC 1141 in which it has been held as under:

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted,

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delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects activity and inaction on the part of a litigant- a litigant who has forgotten the basic norms, namely "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility and remained unauthorizedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings injustice, for it is likely to affect others. Such delay may have impact on others ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold."

6. Judging on the anvil of the aforesaid premises, the irresistible conclusion is that this case needs to be dismissed at the threshold.

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Accordingly both OA and MA stand dismissed. There shall be no order as to costs.



(R.C.MISRA)  
Member (Admn.)



(A.K.PATNAIK)  
Member (Judicial)

