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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00189/2014

Cuttack this the 27th day of March, 2014

CORAM

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

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

Sri Bijaya Kumar Sahoo
S/o. late Dhaneswar Sahoo
At-Kadalimunda
PO-Kishoreganj
Dist-Angul

...Applicant

By the Advocate(s)-M/s.J.S.Mishra

H.Mishra

P.Dutta

S.Lokesh Kumar

-VERSUS-

Union of India represented through

1. The Chief Post Master General
Orissa Circle
Bhubaneswar
Dist-Khurda
Odisha
2. Superintendent of Post Offices
Dhenkanal Division
Dhenkanal
3. The Post Master
Kishoreganj Post Office
At/PO-Kishoreganj, Via-Boinda
Dist-Angul

...Respondents

By the Advocate(s)-Ms.S.Mohapatra

ORDER

R.C.MISRA, MEMBER(A):


Applicant in the present Original Application has approached the Tribunal making a prayer that communication dated 22.11.2005 (Annexure-A/5) to the O.A. should be quashed and the Respondents be directed to appoint the applicant on compassionate ground.



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2. Short facts of the case are that the applicant's father expired on 11.12.2001 while he was working as Postal Assistant in the Kishoreganj S.O. in the District of Angul, Odisha. The prayer of the applicant for compassionate appointment having been rejected, applicant had moved this Tribunal in O.A.No.607 of 2004. This Tribunal, vide order dated 1.7.2005 disposed of the said O.A. by giving direction to Respondent-authorities to reconsider the grievance of the applicant on the basis of the submission that the applicant's younger brother, Ajaya who is serving as EDDA cum MC, was living separately from the rest of the family. The Tribunal also gave further direction to dispose of the matter within a period of 90 days from the date of receipt of the order. In compliance of the direction issued by the Tribunal as aforesaid, CPMG, Orissa Circle reconsidered the grievance of the applicant and rejected the claim for compassionate appointment vide communication dated 22.11.2005 which is placed at Annexure-A/5. The operative portion of this order reads thus : The CPMG has gone through the orders of the Tribunal, observation of CRC and other related records of the case and found that the family of the deceased Government servant is not in indigent condition and besides, there was no vacancy in the cadre of PA/Postman/Group.D under compassionate appointment quota. Therefore, the case of compassionate appointment of the applicant was not approved. This communication is the subject matter of challenge in this O.A.
3. During the course of hearing on admission, learned counsel submitted that the applicant has made another representation before Respondent No.1 on 3.10.2013 stating therein that the appreciation of facts and circumstances of the



case by the Respondents has been erroneous and therefore, ~~prayer for~~  appointment on compassionate ground should be provided to redeem the family which is in distress. Copy of this representation dated 3.10.2013 has been placed at Annexure-A/6 of the O.A.

4. Heard Shri P.Dutta, learned counsel for the applicant and Ms.S.Mohapatra, learned ACGSC on whom a copy of this O.A. has been served appearing for the Respondents on the question of admission and perused the records.

5. Facts of this case indicate that the father of the applicant expired quite some time back i.e., in the year 2001 and the case of the applicant for compassionate appointment having been rejected, he had also approached this Tribunal in O.A. No.607 of 2004 which was disposed by the Tribunal by order dated 1.7.2005. He has thereafter made a representation dated 25.7.2005 to the Chief Post Master General. The CPMG, in compliance of the direction of the Tribunal in O.A.No.607/2004 reconsidered the matter and rejected the request of the applicant for compassionate appointment vide communication dated 22.11.2005. After this order of rejection passed by the CPMG, applicant did not take any further steps for a very long period of time. But on 3.10.2013, he made a representation to Respondent No.1 and having received no response from the said authority, he had moved this Tribunal in O.A.No.961/2013. This was listed before the Bench for hearing on admission on 14.2.2014, on which date on the prayer made by the learned counsel for the applicant, the O.A. was disposed of as withdrawn with liberty to the applicant to file a fresh O.A. Thereafter, applicant



has filed the present O.A. challenging the communication dated 22.11.2005 seeking relief as quoted above.

6. Admittedly, against the cause of action that arose in the year 2005 applicant has moved this Tribunal in the year 2013. Section-21 of A.T.Act, 1985 reads as follows:

- (1) A Tribunal shall not admit an application;
 - (a) in a case where a final order such as is mentioned in Clause(a) of sub-section(2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
 - (b) in a case where an appeal or representation such as is mentioned in Clause (b) of sub-section(2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

7. Perusal of communication dated 22.11.2005 which is the subject matter of challenge in this case ^{reveals that it} is a final order made by the competent authority within the meaning of Clause(a) of sub-section(2) of Section 20. In this view of the matter, the applicant should have approached the Tribunal within one year from the date of communication as provided under Section 21(1)(a) of the A.T.Act and apparently, this O.A. having been filed in the year 2013 is grossly barred by limitation. Applicant has also not filed any petition seeking condonation of delay.

8. Hon'ble Supreme Court in their judgment dated 7.3.2011 in D.C.S.Negi vs. Union of India & Ors. has laid down the law that "Tribunal cannot entertain and decide applications filed under Section 19 of the A.T.Act in complete disregard of the mandate under Section 21. It has been further observed in the same

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judgment that the Tribunal cannot abdicate its duty to act in accordance with the statute under which it is established and the fact that an objection of limitation is not raised by the Respondents is not at all relevant. This decision of the Hon'ble Supreme Court further has been reiterated in the case of Satish Kumar Gajvia vs. Union of India & Ors. in which the Hon'ble Supreme Court has observed as follows.

"The record of the case shows that the application was filed by the petitioner more than two years of appointment of Res.No.3 and no application was filed under sub-section 3 of Section 21 for condonation of delay. Therefore, the Tribunal is not entitled to entertain application filed by the petitioner under section 19 of the A.T.Act.

9. When we examined ⁸ this case in the light of the provisions of Section 21 of the A.T.Act as well as the law laid down by the Hon'ble Apex Court in no uncertain terms regarding the application of limitation, we are to come a conclusion that as the cause of action in the present ^{case} arose in the year 2005, applicant should have taken steps under Section 21(1)(a) of the A.T.Act to approach the Tribunal. Therefore, the present O.A. is barred by Section 21 of the A.T.Act, 1985. A subsequent representation after a long lapse of time in the year 2013 will not at all help in condoning the delay committed by the applicant. It is further noticed that no application for condonation of delay under section 21(3) of the A.T.Act has also been filed.

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On the basis of the above findings, the O.A. is rejected being hopelessly
barred by limitation without being admitted. No costs.

(R.C.MISRA)
MEMBER(A)




(A.K.PATNAIK)
MEMBER(J)

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