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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 260/00892 of 2014  
Cuttack, this the 13<sup>th</sup> day of Jan., 2017

Pradip Kr. Sethi & Another

.....

Applicant

Versus

Union of India & Ors.

.....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? ✓
2. Whether it be referred to PB for circulation? ✓



(A.K.PATNAIK)  
Member (Judl.)

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**O. A. No. 260/00892 OF 2014**

**Cuttack, this the 13<sup>th</sup> Day of January, 2017**

**CORAM**

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

- .....
1. Pradip Kumar Sethi, aged about 37 years, S/o. Late KanhuCharanSethi.
  2. JyotirmayeeSethi, aged about 65 years, Widow of Late KanhuCharanSethi,

Both are at present residing at C/o. Narayan Padhi, Plot No.1380, Bhimatangi Housing Board Colony, Phase-II, P.O. Kapilaprasad, Bhubaneswar-751002, Odisha, permanent resident of Vill/ P.O.- Damapara, Via- Banki, Dist.- Cuttack, Pin: 754007, Odisha.

...APPLICANTS.

By the Advocate-M/s. N,R, Routray, Smt. J. Pradhan,  
S.K. Mohanty, T.K. Choudhury.

-VERSUS-

**Union of India Represented through**

1. Special Secretary, Ministry of Aviation Research Centre, O/O. Director General of Security, Cabinet Secretariat, Block-V (East), R.K. Puram, New Delhi-110066.
2. Director Aviation Research Center, Directorate General of Security, Cabinet Secretariat, East Block-V, R.K. Puram, New Delhi-110066.
3. Asst. Director, Aviation Research Center, Directorate General of Security, Cabinet Secretariat, East Block- V.R.K. Puram, New Delhi-110066

...RESPONDENTS.

By the Advocate- (Mr. S. Behera)

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**ORDER**

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

The sum and substance of the matter runs thus: While working as Senior Field Assistant under ARC New Delhi, applicant No.1's father died on 19.03.2002, leaving behind the widow mother, one unmarried daughter and the applicant No.1. Thereafter, the applicant No.2 submitted the required papers/documents for payment of death-cum-financial benefits as well as consideration of the candidature of her son-Applciant No.1 for appointment on compassionate ground. Applicant No.2 was intimated vide A/3 dt. 29.4.03 that the case of her son Sri P. K. Sethi, Applicant No.1 had been put up before the Compassionate Appointment Committee for consideration, but the same was not considered due to want of sufficient vacancies. Again Applicant No.2 was intimated vide communication dt. 12.12.03 (A/4) that the case of her son had been put up along with 24 candidates before the C.A.C. which met on 18.7.03. However, the Committee did not find him to be more deserving than others for compassionate appointment and accordingly, it was pointed out that the Department is not in a position to offer compassionate appointment in favour of her son. While the matter stood thus, one S.N Chowdhury, Assistant Private Secretary to Minister of Labour, New Delhi sent a letter of September, 2006 to the applicant no.1 enclosing thereto the decision of R/2 which reveals that the case of applicant no.1 had been put up before the Compassionate Appointment Committee meeting held on 30.03.2005 and 01.08.2006, but the Compassionate Appointment Committee did not consider his case as the case is time barred according to Government guidelines. Thereafter, Applicant No.1 submitted a representation dt. 07.05.14

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(A/7) to the Director, Aviation Research Centre, New Delhi (Respondent No.2) for reconsideration of his case against 5% vacancy in Group C & D, direct recruitment quota and since no action was taken, applicants have approached this Tribunal in the instant O.A. seeking for the following relief.

- (i) To declare the rejection of the candidature of applicant No.1 for second and third time on the ground of time barred is non est in the eye of law; and
- (ii) To direct the Respondents to reconsider the case of the applicant No.1 for second and third time on merit for appointment on compassionate ground by the committee; and
- (iii) Pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice.

2. It has been pleaded that even though the candidature of applicant no.1 was rejected by the CAC meeting held on 31.03.2005 being time barred, but nothing was communicated to applicants. In the above background, applicant no.1 had approached the Hon'ble Minister of State for Labour & Employment, Government of India for consideration of his case in response to which, the respondents communicated their decision regarding rejection of candidate of the applicant no.1. It has been submitted that the reliance placed by the respondents on Office Memorandum dated 05.05.2003 clearly envisages that the maximum time a person's name could be kept under consideration for offering compassionate appointment will be three years. According to applicants, three years' time limit would count only from the date the name of applicant no.1 had been enlisted by the departmental authorities in the waiting list of candidates whereas the respondents have not

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specifically indicated any such date on which the name of applicant no.1 had been enlisted.

3. In the counter filed, it has been submitted by the respondents that it is the settled position of law that compassionate appointment is meant for immediate relief to distressed family of the deceased. As more than 12 years has elapsed from the date of death of the Govt. servant, no case for compassionate appointment does now subsist. According to respondents, the OA is time-barred and as no sufficient reasons have been adduced explaining the circumstances which prevented from approaching the Tribunal within the limitation period as prescribed, the O.A. is liable to be dismissed on that ground alone. Respondents have brought to the notice of the Tribunal the minutes of the CAC held on 11.11.2002 and 18.07.2003, order dated 29.08.2006 and minutes of CAC held on 31.03.2005 vide Annexure-R/1, R/2, R/3 & R/4 respectively. Based on this, it has been submitted that after the death of the father of applicant no.1 on 19.03.2002, his case was considered by Compassionate Appointment Committee on 11.11.2002 and 18.07.2003, which did not find him deserving for appointment on compassionate ground. In every year, the number of requests for compassionate appointment generally exceeds the number of available vacancies under this head and therefore, the relative need/priority of request is considered, as not all can be accommodated. It has been pointed out that further consideration of the case of the applicant in the subsequent years was not indicated because, a substantial time had been elapsed in between the CAC held on 31.03.2005 and

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the order dated 29.08.2006 (Annexure-A/8, series to the OA) wherein case of the applicant was found barred by time.

4. Applicant has also filed a rejoinder to the counter in which it has been brought to the notice of the Tribunal as per the O.M. dated 05.05.2003 issued by the, the maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years and since applicant no.1's candidate had been considered by the CAC twice, he had had one more opportunity for being considered in the year 2005 and therefore, consideration of candidate of applicant on the ground that a substantial time has spent in between, is out of place.

5. Heard the learned counsel for both the sides and perused the records. I have also gone through the written notes of submission filed by the parties. Before considering the matter on merit, the Tribunal is in the first instance to consider whether there has been any delay or laches on the part of the applicant in approaching the Tribunal.

6. Admittedly, applicant no.1' case for compassionate appointment had been considered by the CAC twice on 29.04.2002 and 12.12.2003, but his name could not be recommended firstly, due to want of sufficient vacancy and secondly, there were more deserving candidates than him. While the matter stood thus, in anticipation of the fact that his case would be considered by the CAC for the third time, applicant no.1 did not pursue the matter. However, he could come to know that his case had been put up before the CAC meeting held on 30.3.2005 and 01.8.2006, but the Committee did not recommend his case as the same was time barred according to Government guidelines when

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he received a communication from one S.N.Choudhury, Assistant Private Secretary to Minister of State for Labour & Employment, Government of India, New Delhi, enclosing thereto a copy of letter dated 29.08.2006 (A/8) issued from the ARC Headquarters to applicant No.1. This letter dated 29.08.2006(A/8) is impugned and sought to be quashed in the instant O.A. filed on 8.12.2014.

7. As regards condonation of delay, applicants have submitted that no such letter dated 29.08.2006 had ever been received by them. However, on receipt of the said letter from the Assistant Private Secretary to Minister of Labour & Employment, applicant no.1 submitted an appeal to Res.No.2 with a prayer for reconsideration of his case for second and third time by the Committee on merit as the earlier ground of rejection was time barred which was against the scheme issued by the Ministry of DOP&T.

8. In the O.A. no such appeal stated to have been submitted to Res.No.2 after receipt of communication dated 29.08.2006 has been annexed by the applicants. Be that as it may, the fact that after receipt of rejection letter dated 29.08.2006 as an enclosure to the letter of September, 2006 of the Assistant Private Secretary to the Minister of Labour & Employment, there was every reason for the applicant to approach the Tribunal instantly. Even if, he preferred an appeal thereafter to Res.No.2, he could have as well approached the Tribunal within the limitation as prescribed under Section-21 of the A.T.Act, 1985. Therefore, this O.A. filed in the year 2014 challenging a cause of action that arose in the year 2006 is no doubt hopelessly barred by limitation. Since the grounds urged by the applicants in support of

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condonation of delay are not cogent and convincing, I am not inclined to condone delay.

9. Since the O.A. is held to have suffered delay and laches, it would not be proper to go into the merit of the matter. Accordingly, the O.A. is dismissed being hopelessly barred by limitation. No costs.

  
(A.K.PATNAIK)  
MEMBER(J)

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