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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

Date of order : 15.12.95

O.A.No.469/1995

MUQUADDAR KHAN

Versus

..... Applicant

UNION OF INDIA & ORS.

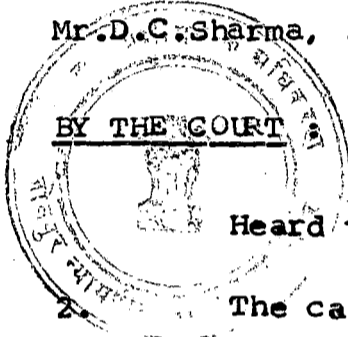
..... Respondents

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THE HON'BLE MS.USHA SEN, ADMINISTRATIVE MEMBER

Present

Mr.D.C.Sharma, learned counsel for the applicant.



Heard the learned counsel for the applicant.

The case of the applicant is that his father died on 1.3.1973 while working as Postal Assistant. The applicant, Muquaddar Khan, was about seven months old at the time of the death of his father. The mother of the applicant made an application on 26.9.1973 to the respondent No. 4 i.e. , Superintendent, Post Office, Pali Division, requesting for appointment of the applicant on his attaining the age of majority. Thereafter, on 20.8.1990 another application was made to the respondent No. 4 who asked the mother of the applicant to submit necessary documents. The required documents were submitted. On not getting any response, the mother of the applicant made a request to the respondent No. 3 for compassionate appointment of her son. It is stated

that when the father of the applicant died he left behind two daughters, one son and his old mother. The family is in financial distress even today, not being able to take two meals a day. The meagre amount of pension is not enough for the requirement of the family. On 12.8.1991, the respondent No. 4 informed the mother of the applicant that her case for appointment of her <sup>been</sup> son has ~~been~~ rejected as the purpose of providing economic assistance does not exist since the father of the applicant died as long back as 17 years. Thereafter, the mother of the applicant made repeated representations to the respondents including a mercy appeal to the Hon'ble Minister of State for Communications. The case was also taken <sup>up</sup> by the Union of the Postal employees. It is stated that on 2.5.1994, the Hon'ble Minister informed the concerned MP that the case was being looked into. ~~He also stated that~~ This information was given to the Union but not to the mother of the applicant. The mother of the applicant came to know of this only through a third person namely, one Shri Mangi Lal, Postman, on 25.8.1995. Thereafter, the applicant has filed this CA on 18.10.1995.

3. The applicant has argued that there is no bar in the Rules for considering a case for compassionate appointment even after 17 years if the wards of the concerned employee were minors at the time of the death of the employee. As such, it was wrong for the respondents to have rejected his case merely because the

father of the applicant died 17 years back.

4. I have examined the case. On merits, I agree that there is no technical bar to consider a case for compassionate appointment when the wards of the deceased employee were minors at the time of the death, if the application is made soon after the ward entitled for such appointment under the Rules attains the age of majority. However, the Rules also provide that in such cases "the very fact that the family has been able to manage somehow all these years should normally be adequate proof to show that the family had some dependable means of subsistence. Therefore, examination of such cases calls for a great deal of circumspection." However, without going into the merits of the case it is seen that the application is barred by limitation under Sec. 21 of the Administrative Tribunals Act, 1985. The application for compassionate appointment had been rejected on 12.8.1991 vide Annex.A-2. Thereafter repeated representations have been made by the mother of the applicant. Such repeated representations do not bring the case within limitation. The Hon'ble Supreme Court has held in Union of India Vs. Harnam Singh, (1993 SCC (L&S) 375) that "the law of limitation may operate harshly but it has to be applied with all its rigour and the courts or Tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire." In S.S.Rathore Vs. State of M.P., (1990 SCC (L&S) 50)

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the Hon<sup>ble</sup> Supreme Court has mentioned that repeated and unsuccessful representations not provided by law are not covered by the principle of application of limitation as discussed in that case.

5. The applicant has filed a Misc. Application for condonation of delay. He has stated that he had filed the appeal before the Hon<sup>ble</sup> Minister on 21.2.1994 and the observation of the Hon<sup>ble</sup> Minister that the case was being looked into, was forwarded by the Secretary of the concerned union of the Postal employees to the applicant vide a letter dated 2.5.1994 which was received by the applicant on 25.8.1995. As such, the applicant requests that since he came to know of the decision of the Hon<sup>ble</sup> Minister only on 25.8.1995, the delay in filing the OA should be condoned.

6. I do not consider that the period of limitation should start from the date of receipt of information by the applicant on 25.8.1995 regarding the observation of the Hon<sup>ble</sup> Minister on the appeal of the applicant's mother for compassionate appointment of the applicant. The cause of action had arisen on 12.8.1991 when the representation for compassionate appointment was rejected by the competent authority. Various representations stated thereafter to have been made by the applicant's mother will not give fresh cause of action as such representations are not provided under the law. The case is clearly time barred. In the circumstances, the application is dismissed as being barred by limitation. However, there is no bar to

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the departmental authorities considering the case  
for compassionate appointment even at this stage if  
they so chose.

Usha Sen  
( USHA SEN )  
Member (A)

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