

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.355/2001.

Wednesday this the 27th day of February 2002.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Binoy Abraham,
S/o Late T.Y.Abraham,
Binoy Bhavan,
Neeleswaram Post,
Kottarakkara-691 506.

Applicant

(By Advocate Shri Asok B. Shenoy)

Vs.

1. Union of India represented by the Secretary to Government, Ministry of Urban Development & Poverty Alleviation, Nirman Bhavan, Maulana Azad Road, New Delhi-110 001.
2. The Director of Printing, Directorate of Printing, 'B' Wing, Nirman Bhavan, Maulana Azad Road, New Delhi-110 001.
3. The Officer in Charge, Government of India Press, Defence Services Staff College, Wellington (Nilgiris)-643 231. Respondents

(By Advocate Shri R. Prasanthkumar, ACGSC)

The application having been heard on 27th February 2002 the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER,

Shri T.Y.Abraham, an Offset Machineman in the Government of India Press, Wellington (Nilgiris) expired on 23.1.1996 leaving behind three dependants viz., his widow, K.Rosamma, daughter Shiny Abraham and son Binoy Abraham. On the death of her husband, the widow made an application for compassionate appointment to be given to her son, Benoy Abraham. A proper representation A-3 was made on 6.7.98 enclosing A-2 Format. The 3rd respondent, by his communication

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A-4 dated 26.11.98, considered the facts of the case and communicated the authority's inability to accede to the request for appointment on compassionate grounds. Thereupon, the widow, by A-5 representation dated 30.1.1999 made to the second respondent reiterated her claim and requested for allowing compassionate appointment to her son. By A-6 communication dated 15.3.99, she was informed by the 3rd respondent that, the 2nd respondent had duly considered the case again and that the decision taken earlier in that regard could not be changed on the facts of the case. The widowed mother, unrelenting, made a further representation A-7 dated 20.6.99 and it was followed up by another representation (A8) dated 2.11.99 by Shri Benoy Abraham, the applicant candidate himself. Apparently, these representations have not been acted upon by the respondents and hence, the applicant is before this Tribunal with this Original Application.

2. The respondents have resisted the O.A. by stating that the Original Application is hopelessly barred by limitation since the applicant was duly informed about the decision taken in respect of the request for compassionate appointment. Since the applicant's mother did not move the Central Administrative Tribunal within the permitted time, it should be considered that she has waived her valuable right to challenge the said order. Accordingly, the respondents represented that unsuccessful representations to the departmental authorities, when appropriate and more efficacious remedy was available to the applicant, would not enlarge the scope of limitation.

Further, as per Annexure R-3 dated 11.6.97, the applicant's

mother, widow of late Abraham was offered a job on compassionate grounds subject to the availability of vacancy. However, the same was declined by her vide Annexure R-4 dated 22.8.97. In view of these facts and circumstances, the applicant would have no right to agitate the matter before this Tribunal. Reliance is placed in this regard on the decision of the Apex court in Auditor General of India and other Vs. G. Anantha Rajewara Rao (1994) I SCC 192 for the proposition that the compassionate appointment is to be considered to tide over the immediate need of the dependent family which is thrown into penury and indigence on account of sudden passing away of the bread winner. The respondents would also rely on the Supreme Court's decisions in Umesh Kumar Nagpal Vs. State of Haryana and others (JT 1994 (3) SC 525) and Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambedkar and others (JT 1994 (2) SC 183). The respondents therefore, contend that the O.A. is liable to be dismissed as time barred and that even on merits there was no case for considering the applicant's request.

3. I have heard, Ms. Lakshmi, Advocate, representing the applicant and Shri Prasanthkumar, Additional Central Government Standing Counsel for the respondents. It is pointed out by the learned counsel for the applicant that, the last representation in this case was submitted on 2.11.1999 and that the respondents were obliged to examine the matter judiciously and communicate their decision to the applicant. She would maintain that the cause of action actually would arise from the date of last representation submitted to the 2nd respondent and

therefore, the plea that the case is time barred cannot not be entertained. She would state that the monetary benefits including family pension received by the family was inadequate to meet the expenses for survival including the educational needs of the daughter (applicant's sister) and that therefore, unless the applicant is given an appointment on compassionate grounds, the family would continue to suffer. Shri Prasanthkumar, the learned Additional Central Government Standing Counsel would maintain that the case is barred by limitation since the earlier application for appointment on compassionate grounds was considered on merit and that the respondents' decision rejecting the same was communicated without delay. The applicant should have immediately acted upon the same. In spite of that, the applicant went on making successive representations. In this connection, learned counsel of the applicant has pointed that, the applicant's second representation was also rejected as has been stated in the reply statement. It could not be accepted that the respondents would have the time and obligation to go on replying to successive correspondence in matters like this. Referring to the case law cited in the statement, the learned counsel would state that the various decisions of the Supreme Court make it clear that appointment on compassionate grounds has been considered as a means to tide over the immediate and emergent financial crisis in the family on account of the sudden passing away of the bread-winner and that it cannot be a source of financial support for the descendants of the deceased according to their time and convenience. Making pointed reference to the fact that the applicant's mother and widow of late Abraham had already been offered a job as and when

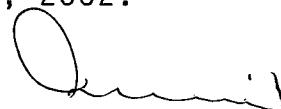
vacancy would arise, and the same was declined by her, the learned counsel would urge that the valuable right waived by the family cannot be claimed later.

4. On a consideration of the facts and circumstances of the case, I find that this case is irremediably barred by limitation. The first representation dated 6.7.1998 was replied to by the respondents by order dated 26.11.1998 (A4) to the effect that there was no merit in the applicant's case. The second representation dated 30.1.99 was also rejected on similar grounds vide order dated 15.3.1999 (A6). The applicant should have been diligent enough to approach this Tribunal for appropriate remedy at the appropriate time. The applicant has filed this application after a lapse of more than three years seeking the Tribunal's intervention. I am inclined to agree with the submission made on behalf of the respondents that the case is barred by limitation and that therefore, one cannot go further to look into the merits of the case. However, even if one takes into account the grounds on merits, there is no case for the applicant. The applicant who is the son of the deceased is now seeking succour after the mother had declined the offer made earlier by the Departmental Authorities as a matter of fairness. That being the position, the applicant is prevented from staking a claim on the benefit of this welfare scheme now. Accordingly, I find that this case has no merit and the application is liable to be rejected on that count too.

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5. On the facts and in the circumstances discussed above, the application stands rejected. Parties will bear their own cost.

Dated the 27th February, 2002.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER

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APPENDIX

Applicant's Annexures:

1. A-1 : True copy of letter No.A.20011/PF/51/85/Estt/250 dt 24.6.98 issued to applicant's mother by 3rd respondent.
2. A-2 : True copy of application for appointment of compassionate grounds submitted by applicant to 3rd respondent on 6.7.98.
3. A-3 : True copy of representation dated 6.7.98 submitted by Applicant's mother to 2nd respondent.
4. A-4 : True copy of letter No.A.20011/PF/51/88/Estt/943 dt.26.11.98 issued by 3rd respondent to applicant's mother.
5. A-5 : True copy of representation dt.30.1.99 submitted by applicant's mother to 2nd respondent.
6. A-6 : True copy of letter No.A-20011/PF/51/88/Estt/1183 dt.15.3.99 issued by 3rd respondent to applicant's mother.
7. A-7 : True copy of representation dt.20.6.99 submitted by applicant's mother to 1st respondent.
8. A-8 : True copy of representation dt.2.11.99 submitted by applicant to 1st respondent.

Respondents' Annexures:

1. R-1 : True xerox copy of the letter dt.23.1.96 sent by the applicant to the 3rd respondent.
2. R-2 : True xerox copy of the death certificate No.A4-106/96 dt. 25.1.96 issued by the Neduvathoor Grama Panchayat.
3. R-3 : True xerox copy of the letter No.26/26/97-A.III dt.11.6.96 issued by the Assistant Director from the Directorate of printing.
4. R-4 : True xerox copy of letter dt.22.8.97 given by the applicant's mother to the 2nd respondent.

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