

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Original Application No.188/2011
This the 6th Day of May 2011**

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Munna Lal, aged about 35 years, son of Late (Shri) Bhai Lal, permanent resident of Village-Nayapura, Post-Gohari, Sorowan, district-Allahabad, presently residing at House No.4, Thana Campus, Mahanagar Police Station, Lucknow.

...Applicant.

By Advocate: Sri Manish Mishra.

Versus.

1. Union of India through the Secretary, Ministry of Defence, North Block, New Delhi.
2. The Chief Engineer, Military Engineering Services, Headquarter, Lucknow Zone, Lucknow-02.
3. The Garrison Engineer (East), Allahabad.

.... Respondents.

By Advocate: Sri S.P. Singh holding brief for Sri R. Mishra.

ORDER (Dictated in open Court)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Heard. This O.A. has been filed for seeking direction to opposite party no.2 to consider the case of the applicant for appointment on compassionate ground. It is said that applicant's father died on 24.07.1998 and he moved an application for compassionate appointment immediately thereafter i.e. on 25.09.1998 (Annexure-2). But, he did not receive any reply from the respondents. Then, after about more than 9 years he moved representation dated 07.09.2010 (Annexure-3). It is said that

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cause of action accrued^{At} on 07.09.2010 when the applicant preferred his last representation which has not been decided as yet.

2. In view of the above, it appears that this OA has been filed belatedly without any satisfactory explanation. The learned counsel for applicant emphasizes that from the date of death he has been constantly in touch with the respondents in respect of pension, gratuity etc. of his father but the fact of the matter is that his application for compassionate appointment was moved way back in the year 1998 and since then more than 9 years have elapsed. Merely by moving another representation after a gap of 9 years on 07.09.2010, would not bring this OA within the ambit of the prescribed period of limitation.

3. The learned counsel for applicant places reliance on the case of **Awadhesh Kumar Vs. Central Administrative Tribunal, Lucknow Bench & Ors. Reported in 2010 (1) ALJ-272.** He emphasizes on paragraph -20 which is as under:-

"Keeping in view the proposition of law discussed hereinabove the petitioner seems to entitle for appointment on compassionate ground. The lapse of three years because of pendency of Original Application before the Tribunal or pendency of appeal before the appellate authority shall not create a ground to deny the compassionate appointment. On 4.10.2002 petitioner has submitted a representation for compassionate appointment which was decided after one and a half year on 28.4.2004. The appeal/representation moved against the order dated 28.4.2004 on 18.11.2004 was never decided and kept pending. The period of three years lapsed because of fault of respondents and not because of fault of petitioner. Accordingly, lapse of three years without any fault on the part of petitioner shall not create a ground to deny the appointment on compassionate ground."

4. The Hon'ble High Court has observed in the aforesaid paragraph that the lapse of three years because of pendency of original application or pendency of appeal before the appellate authority shall not create a ground to deny the compassionate

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appointment. But in the case in hand, firstly there is an unexplained inordinate delay of 9 years as said above. Secondly this delay is not on account of pendency of any OA before the Tribunal or pendency of appeal before the appellate authority. The facts are also different and therefore, applicant cannot derive any benefit from the aforesaid case law.

5. Finally, therefore, the OA is dismissed in view of the provisions of Section-21 of Administrative Tribunal Act, 1985. No order as to costs.

Alok Singh
6.5.11
(Justice Alok Kumar Singh)
Member (J)

Amit/-