

AM

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

O.A.No.120 of 1991.

Ved Prakash TewariApplicant.

Versus

Union of India & others.....Respondents.

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr.K.Obayya,A.M.

(By Hon'ble Mr.Justice U.C.Srivastava, V.C.)

After rejection of his representation on 11.10.90 failing to get compassionate appointment in place of his deceased father, the applicant approached this tribunal praying for the same. It appears that the father of the applicant Uma Dutt Tewari, who was a low-paid employee-Peon in the Intelligence Bureau, Ministry of Home Affairs, died in May, 1975 when the applicant was aged about ten years. His father left behind two daughters and one son and his widow, the eldest one being 17 years. The applicant after attaining the age of majority in the month of February, 1987, on 3.10.89, moved an application for getting compassionate appointment in place of his father. His application was rejected on the ground that the application has been moved after 13 years of the death of the father and the prescribed period for the same i.e. five years have expired and his application cannot be entertained. It appears that the applicant moved representation and his representation was rejected. For this representation, the respondents have given explanation that the application had become barred by time and once the application was rejected, there was no question of re-consideration and the reasons for

Uu

rejecting the application which have been elaborated in the affidavit are that the applicant did not apply for compassionate appointment nor any application was moved by his mother that compassionate appointment may be given to her son. Even no application was moved by the eldest daughter who was aged about 17 years at the time of death of the father that the appointment may be given to her and probably the respondents are not aware that of course generally the application are not moved on behalf of daughters. It is not known whether the daughter has studied or not because nobody is interested in living on the mercy of the daughter, who after marriage, may go to another house. The reasons which have been given by the respondents are not germanae to the matter in issue rather are such which have been given to defeat the application on one ground or the other. It is strange that a plea of five years has been taken without going through the guidelines correctly. The guidelines, as a matter of fact, are applied only to those cases in which a person could have applied within five years and not for those who were minors and who could not have applied and who could not have got appointment unless they attained the age of 18 years. If the applicant became major after the death of his father, he could get an appointment and moved an application after few months after expiry of one year and his application could not have been thrown out on the ground that it is barred by time. There is no law of Limitation applicable in these cases. The application has not been rejected on the grounds which are germanae to the matter in issue but on extraneous and uncalled for consideration. Accordingly the application deserves to be allowed and it is

AB

-3-

allowed and the order dated 11.10.90 is quashed and the respondents are directed to consider the application of the applicant on merit and in case the applicant's case deserves consideration and the vacancies are available, there appears no reason as to why the applicant will not get compassionate appointment when his turn comes. No order as to costs.

MEMBER (A)

VICE CHAIRMAN.

DATED: OCTOBER 19, 1992.

(ug)