

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A.No. 546/2003

Lucknow this the 5K day of Nov., 2004.

HON. SHRI M.L. SAHNI, MEMBER(J)

Vimla Devi, aged about 40 years, w/o late Sri Ramnaresh Gautam, r/o C-1/15, L.D.A. Colony, Kanpur Road, Lucknow.

Applicant.

By Advocate Shri Hari Ram.

versus

1. Union of India through the Secretary, Auditor and Controller General of India, New Delhi.
2. The Principal Accountant General (A&E) 1st U.P. Allahabad.
3. The Senior Accounts Officer (Administration), Accountant's General Office, Allaabad.
4. The Adishasi Abhiyanta, Rural Engineering Service, Hhardoi, U.P.

Respondents.

By Advocate Shri Sunil Sharma.

O R D E R

This O.A. has been filed by the applicant who is the widow of late Shri Ram Naresh Gautam died in harness while working as Divisional Accountant at Hardoi on 9.11.89, for the employment of their son Shri Rahul Naresh Gautam, having attained the age of majority on 1.10.1999. The O.A. was filed on 25.11.2003 with another application for condonation of delay in filing the O.A. wherein the order dated 9.9.2002 (Annexure No. 3) whereby the request for appointment of Shri Rahul Naresh Gautam for appointment on compassionate ground was declined by the respondent No.3, may be assailed, alleging that no cogent reasons have been specified in rejecting the claim of the applicant.

2. I have heard the learned counsel for the applicant at length and have carefully examined the pleadings alongwith copies of the documents annexed therewith. A perusal of the impugned order reveals that in reference to her representation dated 23.8.02 she was informed ~~that~~ as already communicated, vide letters dated 27.3.01, 9.5.01 and 13.9.01, ^{W.e.f} since her request was found time barred, therefore, her son Rahul Naresh Gautam could not possibly be considered for appointment on compassionate grounds. In her prayer for condonation of delay, it is stated that she acknowledged a letter dated 9.9.02 on 15.9.02, whereafter, she contacted her Advocate for filing the O.A., but due to illness of her Counsel, the O.A. could not be filed within the prescribed period of limitation and hence the delay so occurred be condoned in filing the O.A.

3. On behalf of respondents, it is contended that no proof has been produced regarding illness of the Counsel which even otherwise is not ^a good ground for condoning the delay which started running not only from the date of impugned order, but from the date ^{when} she was earlier informed about the impossibility of granting appointment on compassionate grounds to her son because the claim of her son had already become time-barred as is evident from earlier communications copies of which the applicant has herself placed on record as Annexures 9, 10 and 11. The law with regard to limitation is well-settled that repeated representations do not extend the limitation as held in the cases of S.S. Rathore vs. State of M.P. (1989(4) SCC, 582, and V.S. Raghavan vs. Secy. to the Ministry of Defence (1987)3 ATC 602 (CAT) Mad.

4. ~~After~~ on facts, the case of the applicant is examined. It is found that the applicant who earlier applied for compassionate appointment of herself, did not bother to appear before the authorities, who asked her for interview on 5.7.91 and then ~~she~~ sent a letter dated 30.6.96 expressing her inability for appearing on 5.7.91 making reference to her letter dated 3.7.91 requesting for considering her son for appointment on compassionate grounds, / at that time was a minor and according to the applicant herself, he ~~had~~ attained the age of majority on 1.10.99. According to the respondents, no representation dated 3.7.91 was ever received by them and that the copy of ~~any~~ such alleged letter (Annexure-3) placed on record has been created, in order to save the limitation. To refute these allegations, my attention has been drawn to the copy of postal receipt ~~zeroed~~ on the representation dated 3.7.91 (Annexure 3) itself. This alone does not establish the receipt of representation dated 3.7.91 in the absence of any other cogent material produced by the applicant in this case. ~~While~~ According to the applicant herself, Annexure.4 dated 15.5.96 is a letter, in reference to her letter dated 30.3.96 whereby ~~she~~ was intimated that she should make ~~the~~ representation for appointment of her son after ~~he~~ attained 18 years of age. Annexure 6, which is representation dated 21.7.99, categorically states that she had applied for compassionate appointment of her son in place of her husband late Shri R.N. Gautam on 30.3.96 ~~and that~~ ~~she~~ had never pointed out his attaining the age of 18 years vide letter dated 5.5.96. In this letter, which was sent by registered post, she ~~as~~ intimated the authorities that her son would be

attaining the age of 18 years in October, 99. ^{in these Annexures} There is no reference to any representation dated 3.7.91 alleged to have been sent by her. These facts make it clear that for the first time, she applied for appointment on compassionate grounds for her son only on 30.3.96 and that letter dated 3.7.91 has only been ~~created~~ ^{manipulated} in order to save limitation by the applicant, as contended by the respondents. The representation dated 3.3.96 further finds mention in Annexure-7 which is dated 25.11.99. From the documents placed on record by the applicant herself, it appears that she did not care to approach the authorities for appointment on compassionate grounds prior to 30.3.96 while death of her husband had ~~already~~ taken place in 1989 and when she herself was asked to appear for consideration, she declined the offer on the grounds, which might not be justifying her claim for consideration including ~~those~~ as specified in the guidelines and the law as laid down by the superior courts.

5. The object of granting appointment on compassionate grounds is clearly ~~available~~ ^{declared} in the oft-quoted decisions of Hon'ble Supreme Court in cases: (1) Umesh Kumar Nagpal vs. State of Haryana (1994(4) SCC, 138 (2) H.S.E.B. vs. Krishna Devi (JT 2002(3) SC 485 (3) Sanjay Kumar vs. State of Bihar (2001(1) SLJ, 418, SC.

6. Considering the facts of the present case and unexplained delay in applying for appointment on compassionate grounds by the applicant herself, for her son and also filing the O.A. ~~in~~ impugning the order dated 9.9.02 whereby only rejection of her prayer ~~is~~ made on 30.3.96 and repeated ^{wide} and successive ~~the~~ representations, has been communicated, the O.A. is found highly time-barred. There is found no cogent and plausible explanation ^{simply} ~~for the long delay~~ on the part of the applicant in approaching the

authorities concerned as well as this Tribunal for redressal of her grievances, therefore, I find the O.A. not only meritless, but hopelessly barred by limitation. Hence the O.A. is dismissed on both the grounds. No order as to costs.



(M.L.SAHNI)

Member (J)

S.A.