

**Central Administrative Tribunal Lucknow Bench Lucknow**

**O.A. NO.11/2007**

**Lucknow this, the 11<sup>th</sup> day of November, 2008**

**HON'BLE DR. A. K. MISHRA, MEMBER (A)**

Kamla Prasad, aged about 32 years, son of Sheetla Prasad, resident of Village and Post-Rehra Bazar, District – Balrampur.

Applicant.

By Advocate Sri R. K. Saini.

Versus

1. Union of India through Ministry of Post and Telegraphs Parliament House, New Delhi.
2. Chief Post Master General U.P. Lucknow.
3. S.S.P.O Balrampur.

Respondents.

By Advocate Smt. Neelam Shukla.

Order

**By Hon'ble Dr. A. K. Mishra, Member (A)**

This application has been made challenging the order dated 15.7.2002 of Respondent No. 2 rejecting the application of the applicant for compassionate appointment under dying-in-harness rule and also for a direction to the respondents to give him appointment under 5 % quota of direct recruitment meant for compassionate appointment.

2. The father of the applicant died on 1.8.2000 while he was working in the Postal Department as Postal Assistant at Rehra Bazar Post office of Gonda Division. The mother of the applicant had applied on 28.11.2000 to appoint her son, the applicant, against any suitable post. The applicant has educational qualification of M.Sc. degree. When there was no response to her representation, she followed it up with further representations to the C.P.M.G., Lucknow and also to the Union Minister incharge of Post and Telecommunication. These representations were made on 28.3.2001, 24.3.2001 and 15.12.2001 but her representation on the subject was rejected by the C.P.M.G. and the rejection order was communicated on 15.7.2002. This has given rise to the original application which was filed on 4.1.2007 primarily for a direction to the appropriate authority to engage him on a suitable post under the quota meant for compassionate appointment. Subsequently, he amended the application with a prayer to quash the impugned order dated 15.7.2002.



3. At the time of hearing, the counsel for the respondents raised the preliminary ground of non-maintainability of the application on account of limitation. Admittedly, the cause of action arose on 28.11.2000 when the applicant's mother made the representation on the subject after expiry of his father. Since his mother had filed many representations starting from 28.11.2000 up to 15.12.2001, the limitation would be available for 18 months from the date when the cause of action arose. In this connection, the provisions of Section 21 (1) are extracted below:-

"(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of 6 months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of 6 months."

4. Even if it is granted that the cause of action arose after rejection of the representation on 15.7.2003, even then the application has been filed after a long lapse of time on 4.1.2007. The applicant has filed an application for condonation of delay supported by an affidavit. By way of justification, it says, "there is some delay in filing the O.A. but on the ground of delay, the applicant cannot be deprived from his legitimate rights enshrined in the Constitution of India and the delay is liable to be condoned in the interest of justice, equity and fair play."

5. Except for reiterating his right, the affidavit does not reveal any cogent explanation for the delay involved. In **Bhoop Singh Vs. Union of India and Others (1992) 21 ATC 675**, the Hon'ble Supreme Court held, "XXXXXXXXX Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief."

6. In **R.C. Sharma Vs. Uddham Singh Kamal and others, 2000 SCC (L&S) 53**, the Hon'ble Supreme Court held "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."

7. In this case, no explanation has been offered for the delay involved in making this application. Therefore, the preliminary objection of the respondents is sustained.

8. The application which suffers from delay and laches is dismissed as barred by limitation. No costs.

  
(DR. A. K. Mishra)  
Member (A)

v.