

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 526/2007

This, the 30th day of October, 2009

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

Sudhir Kumar,
Son of Late Ram Pal,
Resident of Neel Ma-tha,
Police Station-Cantt.,
District-Lucknow.

Applicant.

By Advocate Sri D. Awasthi.

Versus

1. Union of India, through the Secretary,
Geological Survey of India,
Northern Region,
Lucknow.
2. Deputy Director General,
Geological Survey of India,
Northern Region,
Lucknow.
3. Regional Administrative Officer,
Geological Survey of India,
Northern Region, Lucknow.

Respondents.

By Advocate Sri D. S. Tiwari.

ORDER

By Hon'ble Dr. A. K. Mishra, Member -A

1. Aggrieved by the rejection of his representation for appointment on compassionate ground in the impugned order dated 12.10.2001, the applicant has filed this application with a prayer to set aside the impugned order at Annexure-1 and to direct the respondents to consider his case afresh for appointment on compassionate ground on any suitable post under dying -in-harness rules.

2. The father of the applicant who, was working with Geological Survey of India, Northern Region, Lucknow died in

harness on 24.8.1994. The mother of the applicant made several representations to the respondents for appointment of the applicant on compassionate ground. But his claim was rejected on 18.5.98. The applicant filed an Original Application on 13.7.2001 against this rejection order and the Tribunal directed the respondents to reconsider the claim of the applicant. The Respondent No. 2 again rejected the representation of the applicant on 12.10.2001. According to the applicant, he made a number of representations on 15.6.2002, 6.9.2004, 13.8.2006 and 8.2.2007, but to no avail. Hence this application was filed on 17.12.2007.

3. The grounds taken in the application are: that the applicant was eligible for appointment on compassionate grounds; that sanction of monthly pension amount should not have been used as a ground to reject his application; that the family of the applicant is still in indigent circumstances; that there was no earning member in the family; that the retiral dues received were spent in repayment of loans incurred in connection with treatment of the deceased employee; that the rejection of his claim was made in arbitrary and illegal manner.

4. The respondents have taken the preliminary ground that the averment made in paragraph 3 of the application that it has been filed within the prescribed period of limitation is in-correct. Further, that the application filed for condonation of delay does not reveal any sufficient cause justifying the delayed action on the part of the applicant. The applicant states that his mother is suffering from Hepatitis for many years and he did not have sufficient funds to consult a counsel and file the O.A. on time.



5. The settled position of law is that a liberal view should be taken in respect of delay condonation application. But this principle would be applicable, if the delay involved is of a short duration. The observation of the Supreme Court at paragraph 9 of their judgment in **Vedabai alias Vijayantabai Baburao Patil Vs. Shantaram Baburao Patil and Others reported at 125, 2002 Allahabad Sales Tax cases page 375** is extracted below:-


“In exercising discretion under Section 5 of the Limitation Act, the Courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach, but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard. The Court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression “sufficient cause”, the principle of advancing substantial justice is of prime importance.”

6. I find that the cause of action arose on 12.10.2001 when the representation of the applicant pursuant to the direction of this Tribunal in O.A. 472/98 was rejected by respondent No. 2. The applicant has filed copies of his representations at Annexures-5 to 7. There is no acknowledgment about receipt of these representations, neither have the respondents admitted of their existence in their counter affidavit. The settled position of law is that these representations will not give any relief to the applicant in the matter of condonation of delay. According to his own averments, he had filed O.A. 472/98 in the year 1998 when his claim for compassionate appointment was rejected on 18.5.98. It does not stand to reason why there should have been a delay of 5 years 2 months beyond the limitation period in filing this application. As regards, the ailment of the



applicant's mother, the respondents have submitted that Central Government Health Scheme (CGHS) facilities were open to her and such a ground could not be accepted in considering the inordinate delay of over 5 years. The Supreme Court in ***Bhoop Singh Vs. Union of India and Others reported at (1992) 21 ATC 675*** has held that " x x x x 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."

7. I do not find sufficient justification to condone the delay in filing this application. In the result, the application is dismissed as barred by limitation. No costs.


(Dr. A. K. Mishra)
Member (A)

30/10/09