

Central Administrative Tribunal Lucknow Bench Lucknow.

M.P. No. 2766/2007

In

O.A. No. 510/2007

This, the 10th day of July, 2008.

Hon'ble Shri M. Kanthaiah, Member (J)

Indra Prakash aged about years son of late Sri Kalika Parsed R/o 84/234, Katra Maqboolganj, Lucknow.

Applicant.

By Advocate: Shri A/ Sharma

Versus

1. Union of India through its Secretary-cum- Director General, Department of Science and Industrial Research, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001.

2. Director, Central Institute of Medicinal and Aromatic Plants, Lucknow.
Respondents.

By Advocate: Shri Pankaj Awasthi for Sri A.K. Chaturvedi.

ORDER

By Hon'ble Shri M. Kanthaiah, Member (J)

The applicant has filed the Original Application with a prayer to quash the impugned order dated 14.12.2005 (Annexure No.1) under which the respondent authorities have rejected his claim for compassionate appointment. He also filed M.P. No. 2766/2007 to condone the delay in filing the Original Application on the ground that the Tribunal has passed the order on 10.9.2007 in CCP No. 56/2006 in O.A. No. 352/2001 with liberty to the applicant to file fresh O.A. and thus the delay in filing the O.A. is not deliberate and willful.

2. The respondents have filed objection for condonation of delay application stating that this Tribunal passed order on 10.9.2007 with a liberty to the applicant to file separate proceedings on the rejection order dated 14.12.2005 in accordance with law, which include application under Section 21 of the AT Act, 1985. He further stated that applicant has not fulfilled the requirements U/s 21 of the AT Act, 1985 and thus prayed to dismiss the application for condoning the delay in filing the O.A.

3. Heard both sides.
4. The point for consideration is whether the applicant is entitled for condoning the delay in filing O.A. as prayed for.
5. The admitted facts of the case are that the applicant herein filed O.A. No. 146/2001, claiming compassionate appointment and the same was disposed of on 8.3.2001 with a direction that the competent authority shall dispose of the application of the applicant made on 30.6.99 seeking compassionate appointment on the death of his father within 2 months from the date of communication of the order (Annexure No.3). Thereafter, the respondents after considering the claim of the applicant have rejected his claim for appointment on compassionate ground and passed rejection order and informed such rejection order vide letter dated 26.4.2001 (Annexure 5A), which the applicant challenged by way of filing another O.A. No. 352/2001 and the same was decided with a direction to the respondents to consider the claim of the applicant for compassionate appointment within a period of 3 months from the date of communication of the order. Annexure 6 is the copy of order in O.A. No. 352/2001 dated 16.9.2005.
6. In pursuance of the direction, the respondents have reconsidered the claim of the applicant and passed rejection order dated 14.12.2005. The applicant also filed contempt application No. 56/2006 against the respondents stating that they have not complied the orders of the Tribunal in O.A. No. 352/2001 but the same was rejected on 10.9.2007 stating that no contempt was made out by the applicant and as such contempt application is not maintainable and thus rejected, with liberty to the applicant to file separate proceedings on rejection order in accordance with law. Thereafter, the applicant has filed the present O.A. on 10.12.2007, under which he challenged rejection order dated 14.12.2005 (Annexure A-1) with an application to condone delay in filing O.A. Admittedly, there is delay for about 1 year.
7. The applicant has filed M.P. No. 2766/2007 to condone the delay in filing the Original Application on the grounds that after the orders in O.A. No.

352/2001, he filed contempt application i.e. CCP No. 56/2006 and as such there was a delay in filing the present O.A. He also further stated that liberty was to the applicant in filing separate proceedings against the rejection order Annexure A-1 dated 14.12.2005 in accordance with law and as such he filed the present O.A. after dismissal of the contempt application i.e. CCP No. 56/2006 dated 10.9.2007 and thus the period which he spent in CCP has to be excluded.

8. The respondents have taken objection stating that there are no justified grounds for seeking condoning the delay in filing the O.A. since the rejection order Annexure A-1 dated 14.12.2005 was issued even before filing CCP No. 56/2006 and further the applicant has not satisfied any of the grounds as required under Section 21 of the AT Act, 1985 for condoning delay.

9. Admittedly, the CCP No. 56/2006 in O.A. No. 352/2001 was rejected on 10.9.2007 with liberty to the applicant to file separate proceedings on rejection order dated 14.12.2005 (Annexure A-1) in accordance with law and in view of such orders, it is the duty of the applicant to satisfy the grounds for condoning the delay in filing the O.A. by way of the present O.A. When liberty was given to the applicant for filing separate proceedings on rejection order in accordance with law does not save any limitation to exclude the period for prosecution of CCP 56/2006 or to count the period of limitation from the date of rejection of CCP.

10. The applicant is aware of the rejection order (Annexure A-1) dated 14.12.2005 even on the date of filing of CCP and mere filing of such CCP No. 56/2006 does not save the limitation for filing the present O.A. and further the applicant also not at all given any justified grounds for condoning the delay for about one year in challenging the impugned rejection order dated 14.12.2005 (Annexure-1) by way of filing the present O.A. The applicant has also not at all furnished any sufficient cause or grounds to satisfy the delay and in such circumstances, the objections taken by the respondents in opposing the petition for condonation of delay is justified.

11. Under the above circumstances, the present application M.P.No. 2766/2007 for condoning the delay in filing the O.A. is dismissed and as such the O.A. is rejected at the stage of admission. No costs.



MEMBER (J)

10-07-2008

HLS/-