

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA No. 823 of 2005**

Date of order : 5 October., 2007

**C O R A M**

Hon'ble Mr. Amit Kushari, Member[Admn.]

Chandan Kumar Roy @ Chandan Roy, S/o late Dev Krishna Roy  
aged about 39 years, resident of village – Chandpur, P.S. - Falka  
District – Katihar. .... **Applicant**

Vrs.

1. Union of India through Secretary, Department of Posts, G.P.O.,  
Ashoka Road, New Delhi -1.

2. The Chief Postmaster General, Bihar G.P.O. Building, Patna.

3. The Superintendent of Post Offices, Purnia Division, Purnia  
[Bihar]

..... **Respondents.**

Counsel for the applicant : Shri Arup Kr. Chaundar for Shri Prabhat  
Kumar.

Counsel for the respondents : Shri S.C.Jha with Amitav Pandey, ASC

**ORDER**

**Amit Kushari, Member[A] : -**

The applicant's father Deo Krishna Roy was an employee of the Post  
and Telegraph Department and he died in harness in the year 1994 while



working as Peon in a Sub Post Office of Purnia. The applicant who is about 42 years of age is the fourth son of the deceased employee. The applicant has sought compassionate appointment. His request for compassionate appointment was rejected by the respondents in a very cryptic order dated 15.4.1999 which is at Annexure-B. The order of rejection does not specify any reason as to how and why his request was rejected. Therefore, he filed this O.A. against the order of rejection dated 15.4.1999 in the year 2005 after a gap of six years. For condonation of six years delay in filing the O.A., he has filed M.A. 640 of 2005.

2. Shri S.C.Jha, ld. ASC for the respondents points out that this case is grossly barred by limitation and, therefore, it cannot be considered.

3. The ld. counsel for the applicant says that the only ground for delay is that the applicant is an illiterate person, who belongs to a rural area and he did know the legal requirement of filing of the O.A. within time of limitation. He says that there are number of judgments by different High Courts which says that in the interest of abundant justice delay should be condoned and genuine claims should not be rejected.

4. Shri S.C.Jha, ld. counsel for the respondent pointed out that this is a simple case of negligence and the applicant could not justify the six years delay at all. Ignorance of law is never taken as a genuine excuse.

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Therefore, he contends that the prayer for condonation of delay should be rejected and this O.A. should also be dismissed. The ld. counsel for the respondents also pointed out that the eldest brother of the applicant is an employee of the same Post and Telegraph Department and he should be able to look after his widowed mother. He says that compassionate appointment is not required in this case. He also says that if the family could sustain for the last 13 years which is a very long period, they could not be in indigent conditions and for their survival compassionate appointment is not required. He draws my attention to a judgment of the Apex Court of 1995 in the case of Umesh Nagpal vs. Union of India & Ors. to prove his point.

5. The ld. counsel for the applicant pointed out that if a brother is employed that should not debar a person from seeking compassionate appointment. He draws my attention to a judgment of the Hon'ble Patna High Court in C.W.J.C. No. 11512 of 1992. The judgment says that if one son is a Govt. employee and is separate in mess, the legal entitlement of the other brother cannot be rejected on this ground. The ld. counsel for the applicant also points out that the employed brother of the applicant lives separately at Kishanganj and he has his own separate mess. He also points out that the applicant is in indigent condition and his name also figures in

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the list of below poverty line citizens prepared by the Govt. of Bihar. He substantiates his point and produces a Pink Colour Ration Card which is given to BPL Ration Card holders. He says that his two other brothers are rickshaw pullers and they earned their livelihood with great difficulty and they lead a hand to mouth life.

6. I have carefully considered the arguments of both sides. This O.A. seems to be time barred and no solid reason has been advanced in M.A. 640 of 2005 which is for condonation of delay. It is also clear that this case is 13 years old and after such a long period it is not proper to consider a case for compassionate appointment specially in view of the judgment of the Hon'ble Apex Court in the case of Umesh Nagpal vs. U.O.I. & Ors. I can understand that the impugned order at Annexure-B is cryptic and it could be very unsatisfactory because it does not give any reason for rejection but this issue could have been heard only if the O.A. had come before <sup>me</sup> ~~us~~ in the year 2000 or even earlier. Now it is too late to look into those issues. In view of these observations, this O.A. is dismissed and the ~~M~~.A. 640 of 2005 is also dismissed. No costs.



[ Amit Kushari ]M[A]

mps.