

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.983/99.

Wednesday, this the 26th day of July, 2000.

Coram: Hon'ble Shri B.N.Bahadur, Member (A).

1. Chandrakant Eknath Kasar,
Narwade House,
Majalgaon, Beed Road,
District Beed - 431 131.

2. Eknath Kishanrao Kasar,
Narwade House,
Majalgaon, Beed Road,
District Beed - 431 131.
(By Advocate Shri S.P.Kulkarni)

... Applicants.

Vs.

1. Union of India through
Chief Postmaster General,
Maharashtra Circle, 2nd Floor,
Old G.P.O. Building, Near C.S.T.,
Central Railway, Fort,
At P.O. Mumbai - 400 001.

2. The Secretary (Ex-Officio),
through Director General Posts,
Department of Communication,
Government of India, Dak Bhavan,
Sanchar Bhawan, 20 Asokar Road,
At P.O. New Delhi - 110 001.

3. Postmaster General,
Aurangabad Region,
Aurangabad - 431 002.

4. The Superintendent of Post Offices,
Beed Postal Division,
At P.O. Beed - 431 122.
(By Advocate Shri V.S.Masurkar)

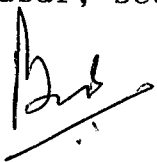
... Respondents.

: O R D E R (ORAL) :

{Per Shri B.N.Bahadur, Member (A)}

This is an application made by two applicants, the first being Chandrakant Eknath Kasar and the second, his father Eknath Kasar, seeking the relief in substance that the Applicant No.1

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be reconsidered for the provision of compassionate appointment. In para 8 of the column titled "Relief sought", the applicant alludes to certain reports and decisions of a committee.

2. I have heard the learned counsel for the respondents and have perused the papers in the case and Rejoinder filed. I have also had the benefit of going through the original records of the case produced by the Respondents, during the arguments to-day. These are two files of the office of the respondents and it includes the report dt. 18.2.1998 referred to in para 8(a) of the OA.

3. The facts of the case are that, the applicant No.2 was declared medically unfit by Respondents after consideration of the certificate of the Civil Surgeon, whom he approached on his own. Thereafter, the request of the applicant No.1 for employment on compassionate grounds was rejected by the respondents vide letter dt. 8.8.1995 (at page 60). The learned counsel for the applicants' states that the reason given while rejecting this application in the last para of the aforesaid letter is wrong, in the sense that the pension being received by applicant No.2 is far too meagre for sustenance of a family. He also states that the reason given to the effect that the applicant No.2 is in private job is patently false. The indigent circumstances of the family are clear, in that he has had to meet considerable expenditure from the meagre sum received after retirement and continues to hold the burden of the family.

4. In regard to limitation, i.e. applicant's coming up with the application before the Tribunal four years after the original decision of rejection of his claim, the learned Counsel for the

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applicants' strenuously argued on the ground that he had made another representation dt. 18.6.1996 (which he calls an appeal and provides the copy at page 21). This has not yet been replied, but the fact that an Officer from Bombay had come for an enquiry vis-a-vis the allegations of corruption made by him and the fact that a report was submitted by him in February 1998, shows that the case was alive and hence he could come to the Tribunal only in 1999. He does admit that there has been slight delay for which he has made a prayer for condonation of delay.

5. The learned counsel for the respondents has also argued the case with reference to the written statements, taking me over the facts in the statement which are specially relevant to his defence. He stated, at first, that even as per rule cited at page 29, the case of medically retired government officials was to be taken as an exception, where his dependent is to be considered for provision of employment, and hence argued that this was really not a fit case at all, even on this ground. He argued the point that the applicant had gone to Civil Surgeon on his own initiative, and this itself created a doubt on his bona fides. The learned counsel for the Respondents took us over further details and stated that the case was re-opened after its initial rejection, because of the letters written to the Ministry (copies of which the applicant himself has filed between pages 19 and 20) and depended on the original records produced by him for detailing the action taken. Only because of this, the matter was re-looked at and reconsideration of the case in the light of these letters does not provide any grounds for the condonation of delay. The learned counsel reiterated that the application was hit severely by limitation.

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that on local enquiry made by the Senior Officer, it transpires that applicant No.2 was not working in the place in which he was alleged to be working on daily basis. It is seen that this is basically an enquiry on the vigilance aspect and the Vigilance Wing of the Respondents Organisation has given its finding on the vigilance angle. The report has, however, been re-considered in the office of the PMG and at the level of senior PMG has been rejected after consideration of this report and a decision taken again.

8. The point regarding exercise of powers at local levels is not very relevant here. It is important to note that such cases have to be provided with compassionate appointment only in exceptional cases. Even assuming that the point regarding the applicant No.2 having secured some local employment is wrong, as indeed is suggested in the report of the vigilance section, it is difficult for me to take a view ~~as to whether~~ ^{that but} the circumstances are so distressful in financial terms that appointment has to be provided. Doubtless, some pension is available although it may ^{but not be ample} for present times. In the background of the law settled by the Hon'ble Supreme Court it would be difficult for this Tribunal to assess facts and independently arrive at a conclusion that this case needs intervention and direction by judicial determination for the provision of a job on compassionate grounds to the applicant No.1. It is noted that Applicant is young and has, in the intervening period, obtained a Degree of Graduation. A direction by the Tribunal would not be possible in the given facts and circumstances of the case.

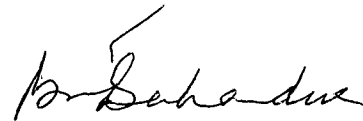
9. Since I have examined the case on merits after hearing both sides, I have not dwelt on the point of limitation though it

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must be stated that there is great delay and laches on the part of the applicant in approaching the Tribunal as late as in November, 1999. This aspect definitely worsens his case before the Tribunal.

10. In the consequence, this application is hereby rejected with no order as to costs.



(B.N. BAHADUR) ,
MEMBER (A)

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