

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO:698/2001

Date of Decision: 19.7.02

Mangesh Chandrakant Maratkar

Applicant

Ms.Neelima Gowhad with
Shri S.P.Saxena

Advocate for the
Applicant

Versus

Union of India & Ors.

Respondents

Shri R.K.Shetty

Advocate for the
Respondents

CORAM:

Hon'ble Smt.Shanta Shastry, Member(A)

- (i) To be referred to the reported or not?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal?
- (iii) Library?

Shanta S
(SMT.SHANTA SHAstry)
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:698/2001
DATED THE 29th DAY OF JULY, 2002

CORAM:HON'BLE SMT.SHANTA SHAstry, MEMBER(A)

1. Mangesh Chandrakant Maratkar,
son of Late Shri C.B.Maratkar,
442, Gawliwada Railway Line,
Kirkee, Pune - 411 003.
2. Mrs.Shalini C Maratkar,
Wife of Late Shri C.B.Maratkar,
442, Gawliwada Railway Line,
Kirkee, Pune - 411 003. ... Applicant

By Advocate Ms.Neelima Gowhad for
Shri S.P.Saxena

V/s.

1. The Union of India,
Through the Secretary,
Ministry of Defence,
DHQ, PO, New Delhi-110 011.
2. The Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta - 700 001.
3. The General Manager,
High Explosives Factory,
Kirkee, Pune - 411 003. ... Respondents

By Advocate Shri R.K.Shetty

(ORDER)

Per Smt.Shanta Shastry, Member(A)

The applicants in this case are the son and the wife of late Shri C.B.Maratkar who was employed under Respondent No.3. In the year 1997, the deceased employee suffered an attack of paralysis thereafter he submitted an application for boarding him out medically because of his illness on 23/9/1998. He was asked to appear before the Medical Board and appeared accordingly on 7/10/1998. The Medical Board declared him unfit which was informed to him on 24/11/98 according to the applicants. Finally

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the deceased employee was medically boarded out vide Factory Order dated 16/2/99. Thereafter the deceased employee had submitted a representation on 23/2/99 praying for compassionate appointment for his son. The representation was rejected on 27/3/99. It was followed by another representation on 13/6/99. Late Shri C.B.Maratkar died on 20/11/99 due to prolonged illness. The applicant no.2 submitted an application for compassionate appointment to her son on 18/2/2000 and 13/7/2001. The representation was rejected on 30/7/2001. Applicant no.2 made a representation on 6/8/2001 again. The same was again rejected on 20/8/2001 and the applicant has approached this Tribunal on 16/9/2001 for a direction to the respondents to consider the case of the applicant no.1 for compassionate appointment in any Group C or Group D post.

2. According to the applicants, the respondents have rejected the request for compassionate appointment of applicant no.1 on the ground that applicant's father had been medically boarded out after he had crossed 57 years of age and therefore applicant no.1 could not be considered for compassionate appointment.

3. The applicant contends that the deceased employee was born on 5/11/1941 and the Medical Board declared him unfit for further service on 7/10/98. He had therefore not yet completed 57 years of age and therefore the respondents ought to have considered the applicant no.1 for compassionate appointment.

4. The respondent submit that the application is barred by limitation as the request of the deceased employee for

compassionate appointment to be given to applicant no.1 was rejected on 27/3/99 whereas the applicants have approached on 17/9/2001 i.e. after One and half years. The applicants have not given any for condonation of delay. Further, the father of applicant no.1 expired on 20/11/99 but the father had not challenged the date of his being struck off the strength although he had lived for almost eleven months after the date of his having been medically boarded out. It is not the date on which the medical board has convened but the date on which the employee is struck off the strength which is relevant for the purpose of counting the age. The applicant's father was struck off strength on 23/11/1998 having declared him medically unfit for further service. He was also asked to submit representation if he had to say anything against the finding of said Medical Board within 30 days from the date of receipt of communication of order dated 23/11/1998.

5. The respondents submit that even if the medical board declared the late employee Shri C.B.Maratkar as unfit to be medically boarded out, still it was necessary that the same had the approval of the Director of Health Services, Ordnance Factory Board, Calcutta. Accordingly the proceedings of the medical board were forwarded to the Director of Health Services for approval on 30/11/1998. The approval was received on 1/2/1999.

6. The respondents submit that according to the rules in exceptional cases when a department is satisfied that the condition of the family is indigent and is in great distress, the benefit of compassionate appointment may be extended to a

son/daughter/near relative of a Government servant retired on medical grounds under Rule 38 of Central Civil Services (Pension) Rules, 1972, or corresponding provisions in the Central Civil Service Regulations before attaining the age of 55 years. In case of Group 'D' employees whose normal age of superannuation is 60 years, compassionate appointment may be considered were they are retired on medical grounds before attaining the age of 57 years. Late Shri Chandrakant B Maratkar had already attained the age of 57 years on the date his name was struck off the strength of the Factory i.e. w.e.f. 23/12/1998 (AN). His case was not falling within the purview of provisions available for providing employment assistance on compassionate grounds in terms of Ministry of Personnel, P.G and Pensions (Department of Personnel & Training), New Delhi letter dated 22/6/1995 and therefore the request was rejected.

7. The respondents submit that they had considered the case of Late Shri C.B.Maratkar very diligently and carefully taking into consideration all rules and regulations on the subject but they could not help the applicant no.1.

8. I have given careful consideration to the arguments advanced on both sides. I find that compassionate appointment can be given to the wards of the Government employees who are boarded out medically before their superannuation. However, there is a stipulation that the invalid employee should not have crossed 57 years of age. It is seen from the submissions made by the respondents that the Late father of applicant no.1 had completed 57 years of age when actually the orders of striking

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him off the strength of the Factory had been issued. According to the applicant, the date on which the medical board declared his father unfit should be the date for calculating the age. However, a reading of the Rule position shows that the compassionate appointment may be considered where the Group 'D' employees are retired on medical grounds before attaining the age of 57 years. The word used is retired on medical grounds and not declared unfit by medical board. Therefore it is the date on which the name of late employee was struck off the strength of the Factory which is to be considered.

9. In my considered view therefore the applicants have no case and accordingly the OA deserves to be dismissed.

10. The respondents have raised the plea of limitation. It is seen that the application for compassionate appointment was made on 23/2/99 and the same was rejected on 27/3/99. The father of the applicant no.1 had represented on 15/6/99 thereafter further representations were made later on on 18/2/2000, 13/7/2001, 6/8/2001 and so on. However the first representation is of 15/6/99 and even if six months period is to be added to that still the applicant should have approached this Tribunal atleast by 14/12/99, instead he has approached on 17/9/2001. Mere repeated representations cannot extend the period of limitation. Therefore the application is not within the period of limitation and therefore on the ground of limitation also, the OA deserves to be dismissed.

11. In the facts and circumstances of the case, the OA is dismissed. No costs.

Shanta F
(SMT.SHANTA SHAstry)
MEMBER(A)

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