

7

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 41/93

Transfer Application No:

DATE OF DECISION 25.8.1994

A. R. Gaikwad Petitioner

SHri G. S. Walia

Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri S. C. Dhawan.

Advocate for the Respondent(s)

CORAL:

The Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman,

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement? NO
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. Whether it needs to be circulated to other Benches of the Tribunal? NO

  
(M. S. DESHPANDE)  
VICE-CHAIRMAN

NS/

8  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
BOMBAY BENCH, BOMBAY.

Original Application No. 41/93.

A.R. Gaikwad.

... Applicant.

v/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman.

Appearances:-

Applicant by Shri G.S.Walia.

Respondents by Shri S.C.Dhawan.

Oral Judgment :-

Per Shri M.S.Deshpande, Vice-Chairman Dt.25.8.1994.

The applicant's father died on 18.7.1975 while he was in Railway Service. The applicant was six years old at that time and after attaining majority and passing S.S.C. examination he applied for appointment on compassionate grounds on 11.6.1986. He was called for an interview on 7.11.1986 and was found to be suitable for appointment as mentioned in the letter dt. 18.6.1987 (Exhibit 'E') and sanction of the Competent Authority was sought for making the appointment. However, on 1.9.1988 the applicant was informed that his request for appointment on compassionate grounds was turned down by the Competent Authority. The applicant made representation on 10.1.1989 which was forwarded to the Railway Ministry and on 05.4.1989 (Exhibit 'I') another representation was made by the applicant's mother. It appears that the applicant made a representation to the Prime Minister on 20.4.1990

....2.

and by the reply dt. 22.5.1990 she was informed that the matter had been forwarded to the Secretary, Ministry of Railways for appropriate action. Since no further action was taken, the applicant filed the present application on 22.1.1993 for a compassionate appointment.

2. It is not necessary to go to the merits of the case because if the suitability of the applicant had been adjudged and the departmental authorities had found the applicant suitable for appointment on 18.6.1987. Shri Dhawan, learned counsel for the Respondents urged that the present application is not maintainable because it is barred by time and no reasons have been given in the application for condonation of delay. On the basis of Section 21 of the Administrative Tribunals Act it was urged that the present application should have been made within 18 months of the letter dt. 22.5.1990 and that even the Prime Minister's Office was not a statutory authority to which the grievance should have been addressed.

3. Shri Walia for the applicant relied on the observations in B.Kumar V/s. Union of India & Ors. (1988(1) A.T.R. (1) for the proposition that while it is true that limitation is to run from the date of rejection of a representation, the same will not hold good where the department concerned chooses to entertain a further representation and considers the same on merits before disposing of the same. Since it is, in any case, open to the Department concerned to consider a matter at any stage and redress the grievance or grant the relief, even though earlier representations have been rejected, it would be inequitable and unfair to dismiss an application on the ground of limitation with reference to the date of earlier rejection where the concerned department has itself chosen, may be at

a higher level, to entertain and examine the matter afresh on merits and rejected it. ~~This is what exactly has happened in the present case.~~ It is difficult to see how these observations can be invoked in the present case. The communication by the Prime Minister's Office was a formal communication without examining the merits of the case forwarding the application for disposal to the Secretary, Ministry of Railways. Such a letter cannot come within the proposition which has been laid down in B.Kumar's case (supra).

4. Even otherwise, the application will be barred by time as it was not preferred within 18 months of the communication from the Prime Minister's Office to the Secretary, Ministry of Railways.

5. At this stage, Shri Walia requested for time to file an application for condonation of delay. The learned counsel was aware of the provision relating to limitation and no application has been made earlier. In any case, the event on the basis of which the applicant could have sought a compassionate appointment occurred on 18.7.1975 when the applicant's father died. He applied on 11.6.1986 after attaining majority. Though the rules may authorise such an application being made after attaining majority, what the Tribunal is being asked is to examine the distress<sup>o</sup> condition of the applicant between 1975 to 1986. This will, in any event, be a stale claim which the Tribunal ~~o~~ would be slow to entertain.

6. In the result, the application is dismissed as barred by time.

  
(M.S.DESHPANDE)  
VICE-CHAIRMAN