

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 1126/98

27.6.2009
Date of Decision :

B.B.Jawanjal Applicant.

Shri K.K.Ahire Advocate for the
Applicant.

VERSUS

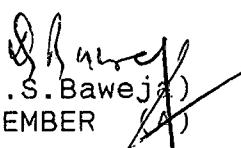
Union of India & Others, Respondents.

Shri R.G.Agarwal Advocate for the
Respondents.

CORAM :

The Hon'ble Shri D.S.Baweja, Member (A)

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


(D.S. Baweja)
MEMBER

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.1126/98

Dated this the 27 day of June 2000.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Bharat Bhaurao Jawanjal,
R/o Shirasgaon Kasba,
Tq.Chandur Bazar,
Distt. Amravati.

...Applicant

By Advocate Shri K.K.Ahire

V/S.

Union of India through it's

1. General Manager,
Ordnance Factory,
Chanda - 442 501.

2. Works Manager Admin-I,
Ordnance Factory,
Chanda - 442 501.

...Respondents

By Advocate Shri R.G.Agarwal

O R D E R

{Per: Shri D.S.Baweja, Member (A)}

The father of the applicant Shri Bhaurao Jawanjal while working as Labourer (semi-skilled) in Chanda Ordnance Factory died on 15.3.1995. The deceased employee left behind his family comprising of widow (mother) two sons and a daughter. The mother of the applicant made an application for grant of compassionate appointment to her second son, i.e. the applicant in the present

(V)

..2/-

OA. in the month of March/April,1995 after the death of her husband. The request for compassionate appointment was, however, rejected as per the order dated 6.10.1995 indicating the reason that the same is not admissible as one of her son is already employed in Armed Forces. However, the mother of the applicant made another representation dated 10.11.1995 for reconsideration of the case for compassionate appointment and this was followed by several reminders and finally as per letter dated 4/10.8.1998, she got a reply rejecting the claim for compassionate appointment reiterating the same reasons as advised earlier. Thereafter, a legal notice was also sent on 11.9.1998 explaining the position that the son who is employed in the Armed Forces is separated from the family long back and he is not supporting the family and therefore the case of the applicant should be considered for compassionate appointment without taking into account the employment of her elder son. On not getting any reply to the legal notice, the present OA. has been filed on 6.11.1998.

2. The respondents have filed the reply opposing the claim of the applicant. At the outset, the respondents have taken a plea that the OA. is barred by limitation as the request for compassionate appointment for the applicant was rejected as per order dated 6.10.1991 and the present OA. has been filed only on 6.11.1998. On merits, it is submitted that after the request for compassionate appointment was made in April,1995, the family details of the deceased employee were verified and it was revealed

that the elder son, namely, Shri Vinayak had been already employed in service in Armed Forces. In view of this, the case of compassionate appointment for the applicant was not found fit as per the extant rules and the mother of the applicant was accordingly advised.

3. The applicant has filed rejoinder reply controverting the submissions of the respondents.

4. The respondents have filed additional written statement in reply to rejoinder reply re-stating their stand taken in the written statement.

5. I have heard the arguments of Shri K.K.Ahire, learned counsel for the applicant and Shri R.G.Agarwal, learned counsel for the respondents.

6. Before going into the merits of the reliefs prayed for, the plea of limitation taken by the respondents will be gone into to find out whether the OA. deserves to be dismissed on this count alone. It is noted that the death of the father of the applicant took place on 15.3.1995. The mother of the applicant made a request for compassionate appointment in April, 1995. The respondents have promptly considered the request but the same was not found permissible as per the extant rules and the mother of the applicant was advised of rejection of request as per letter dated 6.10.1995. This is admitted by the applicant. However, it is noted that inspite of this rejection, the mother of the

applicant has been repeatedly making representations for several years and has filed the present OA. only when one of the representations was again replied by the respondents as per letter dated 4/10.8.1998. The applicant in the OA. against para 3 has indicated that the OA. is filed within the limitation period in reference to the rejection letter dated 4/10.8.1998. However, subsequently, when the respondents have taken the plea of limitation in the written statement, the applicant has filed a Misc. Application seeking condonation of delay in filing the OA. From the facts as emerging, it is obvious that the first cause of action arose to the applicant with rejection of the request for compassionate appointment as per letter dated 6.10.1995. The delay, if any, in filing the OA. has to be explained with reference to this letter and not to any subsequent reply if given by the respondents in reference to repeated representations being made subsequently by the mother of the applicant. On carefully going through the Misc.Application for condonation of delay, I find that the applicant has not advanced any cogent reasons as to why the matter was not agitated for seeking legal remedy after the request for compassionate appointment was rejected in October, 1995. To explain the delay, the applicant has contended that his mother has been making representations explaining that the ground for rejection of request on account of elder brother being already employed can not be valid and the case should be reconsidered as the elder son is not supporting the family. I am not impressed by the reasons advanced for delay keeping in view the purpose of compassionate appointment scheme. The whole

object of compassionate appointment is to enable the family of the deceased employee to tide over the sudden financial crises faced by the family. Therefore, the need of compassionate appointment is immediate. Any appointment sought after several years will not be on account of compassion but it will be more of as a right of employment and being claimed as it is a matter of inheritance on the death of the father. In the present case, if the applicant was in need of appointment, then after the rejection of request was done by the respondents in 1995, he should have sought legal remedy immediately. However, from the correspondence being made by the mother, it is quite clear that the purpose of appointment was not to meet with the immediate crises faced by the family but was more with a view to secure appointment for the applicant. With these observations, I have no hesitation to conclude that the present OA. filed in November, 1998 is barred by limitation.

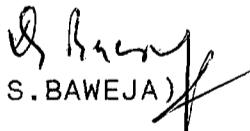
7. In this connection, reference is made to law laid down by the Hon'ble Supreme Court in the case of Dhalla Ram vs. Union of India & Ors., 1998 SCC (L&S) 112. In this case, the petitioner has claimed for compassionate appointment on account of death of his father on 15.7.1987. The request was rejected as per order dated 14.7.1988. Thereafter, he filed an OA. on 12.7.1993. The Tribunal dismissed the OA. as being barred by limitation. The matter was taken up in an appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court upheld the order of the Tribunal stating that there is no ground warranting interference with the order of the Tribunal. In this judgement, the Hon'ble Supreme Court has observed as under :-

" The very object of making appointment on compassionate grounds is to rehabilitate the family in distress of the deceased employee who dies in harness. There should be no difficulty in considering an eligible candidate for providing immediate sustenance to the members of the deceased employee. He had applied on 15.7.1987 and the application was rejected on 14.7.1988. He filed the OA. on 12.7.1993. In view of the long delay, after the refusal by the Government, in filing the application, the same cannot be entertained. The appointment on compassionate grounds is not a method of recruitment but is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution."

The facts of the present case are more or less the same in the present OA. Keeping in view the law laid down by the Hon'ble Supreme Court, it is to be held that the stand taken by the respondents has merit and the OA. is barred by limitation.

8. Since it is held that the OA. is barred by limitation, I do not consider it necessary to go into the merits of relief prayed for.

9. In the result of the above deliberations, the OA. is being barred by limitation and is dismissed accordingly. No order as to costs.


(D.S. BAWEJA)
MEMBER (A)

mrj.