

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the ^{15th} day of August, 2006

RA No.09/2006 (OA No.168/2005)
Misc. Application No.165/2006

Laxmi Chand Sharma s/o late Shri Bhagwan Sahai Sharma,
aged about 31 years r/o Village and Post Bajna
(Sapotra), District Sawaimadhopur, aspirant for
appointment on compassionate grounds on the post of
Gramin Dak Sevak or any other suitable post.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India through its Secretary to the Govt.
of India, Department of Posts, Ministry of
Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle,
Jaipur
3. Superintendent of Post Offices, Sawaimadhopur
Postal Division, Sawaimadhopur.

.. Respondents

ORDER (By Circulation)

The applicant has filed this Review Application
for reviewing the order dated 5.4.2006 passed in OA
No.168/2005. Alongwith this Review Application, the
applicant has also filed Misc. Application for
condonation of delay in filing the Review Application.

2. The question whether this Tribunal has got power
to condone the delay where the Review Application has

been filed beyond the period of 30 days as mentioned in rule 30 of Central Administrative Tribunal (Procedure) Rules, 1987 came for consideration before various Benches of this Tribunal as well as Hon'ble High Court and the matter on this point is no longer res-integra. The Full Bench of the Andhra Pradesh High Court in the case of G.Nara Simha Rao vs. Regional Joint Director of School Education (W.P.21738 of 1998) has already held that the Tribunal has no jurisdiction to condone the delay by taking aid and assistance of either sub-section (3) of Section 21 of the Administrative Tribunals Act or Section 29(2) of the Limitation Act. The matter was also considered by the Patna Bench of this Tribunal in RA No.99 of 2005 decided on 27.1.2006 (Union of India vs. Ramdeo Singh), whereby this Tribunal has considered the fact of two contradictory judgements of Hon'ble Calcutta High Court and the Andhra Pradesh High Court and held that delay in filing the Review Application cannot be condoned. At this stage, it would be useful to quote relevant part of para 4 of the decision of the Apex Court in the case of K.Ajit Babu vs. Union of India, 1998 (1) SLJ 85 which is in the following terms:-

“.....Besides that, the right of review is available if such application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case of all times to come. Public policy demands that there should be end to law suits and if the view of the tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find

that a right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure, if filed within the period of limitation."

Thus, in view of the law laid down by the Apex Court as well as the decision rendered by the Full Bench of Andhra Pradesh High Court and also the decision rendered by the Division Bench of the Patna Bench of this Tribunal in the case of Ramdeo Singh (supra), I am of the view that this Tribunal has got no power to condone the delay where the Review Application has been filed after the prescribed period of 30 days.

4. Even on merits, the applicant has not made out any case for reviewing the order of this Tribunal. The review is sought on the basis that this Tribunal in the aforesaid order while comparing the 11 selected persons vis-à-vis the applicant has held that claim of the applicant has been wrongly rejected but due to non-availability of vacancy not passed any order in favour of the applicant. This averment made by the applicant in the Review Application is factually incorrect. In fact this Tribunal has categorically held in para 7 of the judgment that it cannot be said that the case of the applicant is on better footing as compared to 11 candidates approved by the CRC. At this stage, it will be useful to quote relevant portion of para 7, which thus reads:-

"7. Thus, from the portion as quoted above, it cannot be said that the case of the applicant is on better footing as compared to 11 candidates approved by the CRC. The applicant has made grievance regarding Smt. Santosh Devi in his rejoinder. No doubt, Smt. Santosh Devi has received terminal benefits to the tune of Rs. 107,101/- as compared to Rs. 48000/- received by the family of the applicant, but if one has regard to other aspects of the matter, it is clear that family of Smt. Santosh Devi does not possess agricultural land and also that the house owned by Smt. Santosh Devi was Kachcha one as compared to the applicant where the family has own house and 1 bigha and 2 biswa of agriculture land. Further, in the case of Smt. Santosh Devi, there were liabilities of two minor sons whereas in the case of the applicant there was only one minor son and two major sons who can assist the family in better way as compared to the case of Smt. Santosh Devi. That apart, from perusal of comparative statement, it is clear that family of the applicant was deriving annual income of Rs. 2000/- from agriculture land whereas in the case of Smt. Santosh Devi there was no such income. Thus, it cannot be said that case of the applicant was on better footing than that of Smt. Santosh Devi....."

It was further held that the scheme of ED Agents is different than that of the scheme governing Group D or C posts of the Central Government. Appointment on compassionate grounds in respect of dependents/near relative of the deceased ED Agents is ordinarily made against the vacancy caused due to death of ED Agent by appointing one or his/her dependent on compassionate Grounds. Departure from this normal rule is only in those cases where the vacancy at village post office is not available and in that contingency compassionate appointment can be given in any other post office in vicinity or neighbourhood of his place of residence. It was further held that since notice in this case was confined on the limited ground whether condition of the applicant vis-à-vis 11 candidates, who have been given appointment on compassionate grounds is more indigent and also that the case set up by the applicant that he may be given appointment on the post

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of GDSBPM, Bajna which post stood already filled on regular basis; it was held that even on this ground the applicant cannot be granted any relief as the vacancy caused due to death of father of the applicant has been filled by appointing regular candidate and the applicant has not shown that there is any other vacancy available in the vicinity/neighbourhood where the applicant could have been posted. Now by way of this Review Application, another ground taken by the applicant is that at the time of filing of the OA post of Bajna EDBO was vacant and subsequently so many other posts became available and the respondents have also advertised the vacant post, as such his case ought to have been considered against those posts which became subsequently available. This plea of the applicant cannot be accepted as the applicant cannot be permitted to plead a new case which has not been set up in the OA by filing a Review Application. As already stated above, since notice in this OA was confined only to limited ground, ^{it was} as ^{that} contended by the learned counsel for the applicant, ^{that} the Circle Relaxation Committee had considered the case of various persons including that of applicant and 11 persons have been recommended but no comparative assessment is available on record as to how the case of the applicant has been rejected. It was only on this limited extent the respondents were directed to produce comparative chart of the condition of the

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applicant vis-à-vis the persons who have been offered appointment on compassionate grounds. Thus, the matter was required to be examined only on this limited ground which this Tribunal considered and found that the case of the applicant cannot be said to be on better footing as compared to 11 candidates approved by the CRC. Besides this, the Tribunal has also given the additional reasoning for rejecting the case of the applicant.

5. Thus, I am of the firm view that the applicant has not made out any case for reviewing the order. In case the applicant was aggrieved on account of the order dated 20.4.2005 whereby notice was confined to the limited extent to examine the case of the applicant vis-à-vis approved candidates it was open for the applicant to sought review of the order dated 20.4.2005 and not that of the judgment dated 5.4.2006 where the case was rejected on merit.

6. In view of what has been stated above, the Review Application and Misc. Application for condonation of delay stand disposed of.



(M.L. CHAUHAN)

Member (J)

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