

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 23rd day of September, 2010

O.A. No. 138/2009 with
M.A.No.99/2009

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)

Balwant Kumar Gupta,
s/o Late Shri Vishambhar Dayal Gupta,
r/o Village and Post Ghatla,
Tehsil Alwar, District Alwar.
Aspirant for appointment on
compassionate grounds on the post
of Gramin Dak Sevak or any other
suitable post.

.. Applicant

(By Advocate: Mr. 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. Senior Superintendent of Post Offices,
Alwar Postal Division,
Alwar.

.. Respondent

(By Advocate: Mr. Gaurav Jain)



ORDER (ORAL)

The applicant has filed this OA thereby praying for quashing letter dated 1.10.2003 (Ann.A/1) whereby the applicant was informed that his case for compassionate appointment was considered by the Circle Relaxation Committee (CRC) in its meeting held on 26.9.2003 and the same was rejected as the family was not found in indigent condition. The applicant has further prayed that direction may be given to the respondents not to fill the post of Gramin Dak Sevak Branch Post Master, Ghatla from outsider.

2. The applicant has also moved Misc. Application for condonation of delay which was registered as MA No.99/2009. In this MA the applicant has stated that after rejection of his case as communicated vide letter dated 1.10.2003 he further represented before respondent No.2 in the year 2004 and 2005 which is under consideration before the authorities and due to shortage of funds he could not manage to approach this Tribunal and that he also pursued the matter through the Member of Parliament. Thus according to the applicant, the aforesaid facts constitute sufficient ground for condonation of delay.

3. Notice of this application as well as Misc. Application was given to the respondents. The respondents have filed reply. In the reply, the respondents have stated that father of the applicant late Shri Vishambhar Dayal Gupta, Ex-GDSBPM, Ghatla expired on 1.7.2003 at the stage of 64 years and 7 months i.e. before 5 months of his date of superannuation on 15.12.2003, leaving behind his wife

and three married sons aged 40 years, 36 years and 33 years in which two elder sons are living separately and the applicant is living with his mother in their own house and now having a small shop in his village for livelihood as accepted by him in Ann.A/4. Thus, according to the respondents, the CRC which considered the case of the applicant for compassionate appointment to the post of GDS in its meeting held on 26.9.2003 has rightly come to the conclusion that the applicant is not entitled for compassionate appointment. It has further been stated that all the sons are married and above 25 years of age cannot be said to be dependent of deceased GDS and they are able to earn by doing some work for their livelihood. It is further stated that the family has its own house (approximately value of Rs. 50000) to live in, received terminal benefit of Rs. 48,000 and there were no major liabilities such as marriage of daughters and education of minor children.

In reply to the MA for condonation of delay, the respondents have stated that the application for compassionate appointment was rejected vide letter dated 1.10.2003 and limitation for filing of OA was upto 1.10.2004, but the same was filed on 11.4.2009 i.e. after a delay of 5 years. It is further stated that the Apex Court in the case of Bhoop Singh Vs. Union of India, reported in 1992 (3) SCC 322 has held that limitation of filing of an application under Section 19 of the Administrative Tribunals Act, 1985 is to be counted from the original date of cause of action and submission of representation does not extend the period of limitation. Thus, according to the respondents, in view of the law laid down by the Apex Court and the fact that the

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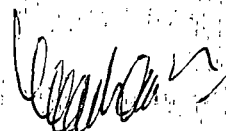
applicant has not explained day-to-day delay, the application for condonation of delay is liable to be rejected.

4. I have heard the learned counsel for the parties and gone through the material placed on record.

5. Admittedly, the case of the applicant for compassionate appointment was rejected on 1.10.2003 and the OA was filed after a lapse of more than 5 years. The applicant has not given any valid explanation as to why he has not approached this Tribunal within the time prescribed under Section 21 of the Administrative Tribunals Act, 1985. But for the vague averment made by the applicant that he has made representation in the year 2004 and 2005 before respondent No.2 which has not been decided by the respondents, will not condone the unexplained delay upto April, 2009. The explanation given by the applicant that he has filed representation in the year 2004 and 2005 does not constitute sufficient cause for condoning the delay. The applicant has not given any valid explanation why he has filed the OA on 11.4.2009, after a period of more than 5 years from the date of rejection of his case for compassionate appointment vide letter dated 1.10.2003. Under the law, the applicant was required to explain the delay which has occasioned after expiry of the period stipulated under sub-Section (1) or sub-section (2) of Section 21 of the Administrative Tribunals Act, 1985, although he was not required to give explanation for delay upto 1.10.2004. This is the view which has been taken by the Apex Court in the case of State of Karnataka vs. S.M.Kotrayya, 1996 SCC (L&S) 1488, wherein the Apex Court held that the Tribunal

should be required to satisfy itself whether the explanation offered was proper explanation for the delay which occasioned after expiry of the prescribed period under sub-section (1) or (2) of Section 21 of the Administrative Tribunals Act. According to me, the explanation given by the applicant for condonation of delay of the period of more than 5 years cannot be said to be valid explanation, more particularly, in respect of cases of compassionate appointment where such appointment cannot be claimed as a matter of right and is in violation of the provisions contained under Article 14 and 16 of the Constitution of India. Such appointment can be granted in most deserving cases where the condition of the family is in penury requiring immediate assistance and in such circumstances departure can be made from normal rules. Further a considerable period has expired itself is sufficient proof that the family can survive and is not in indigent condition warranting immediate assistance. Thus in order to decide whether the delay should be condoned or not, the object and purpose of the scheme has also to be kept in view.

6. Accordingly, I am of the view that it is a case where delay should not be condoned. Accordingly, the MA for condonation of delay is rejected. Resultantly, the OA is also dismissed with no order as to costs.


(M.L. CHAUHAN)
Judl. Member

R/