

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 19th day of July, 2011

ORIGINAL APPLICATION NO. 275/2011
WITH
MISC. APPLICATION NO. 172/2011

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER

Hanuman Sahai Meena son of Shri Birdi Chand Meena by caste Meena, aged about 29 years, resident of Bayadwala-ki-Dhani, Village Bhavpura, P.O. Baneda-via Bassi, Jamwa Ramgarh, Jaipur.

.....Applicant

(By Advocate: Mr. P.N. Jatti)

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Superintendent Post Offices, Jaipur (MFL) Dn. Sastri Nagar, Jaipur, Sikar Dn. Jaipur.

.....Respondents

(By Advocate: -----)

ORDER (ORAL)

This is the second round of litigation. Earlier the applicant preferred OA No. 212/2009 with Misc. Application No. 150/2009. In that OA the applicant had prayed for compassionate appointment. The grievance of the applicant was that his case had not been considered by the respondents despite the fact that he had made a representation in the year 2009.

2. The respondents alongwith their reply annexed a copy of the order dated 12.03.2003 as Annexure R/6, which had been endorsed to



the applicant and the Tribunal in the aforesaid OA had perused the order dated 12.03.2003 (Annexure R/6), which reveals that the case of the applicant for compassionate appointment had been rejected way back in March, 2003. The Tribunal further observed that the contention of the applicant that his case had not been decided by the respondents is wrong.

3. It appears that when the observation was made by the Tribunal, the applicant thought it proper to seek permission to withdraw the aforesaid OA No. 212/2009 with liberty to file substantive OA for the same cause of action. This Tribunal vide its order dated 17.08.2010 permitted the applicant to withdraw the OA with liberty reserved to him to file substantive OA for the same cause of action. It was, however, made clear that it will be permissible for the respondents to raise all permissible objections in the OA to be filed by the applicant. Since the OA was disposed of as withdrawn, Misc. Application filed alongwith the aforesaid also stands disposed of.

4. Now by way of this substantive OA, the applicant challenged the order dated 12.03.2003 whereby the committee after objective assessment of financial condition of the applicant did not find the family in indigent condition and hence his case for grant of appointment on compassionate ground was rejected. Now in this OA, new plea has been taken by the applicant that copy of the impugned order dated 12.03.2003 was not made available to him whereas in the impugned order itself, endorsement to the applicant was made. I am not convinced with the plea taken that the impugned order dated 12.03.2003 was not made available to the applicant. Even otherwise

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also, the impugned order was passed way back in March, 2003 and after a lapse of more than a period of eight years, the present OA has been filed. Thus the present preferred by the applicant is hopelessly time barred.

5. Having considered the Misc. Application for condonation of delay, I am not satisfied with the reasons stated in this application that at the time of final arguments, the respondents disclosed the fact that the case of the applicant was rejected on 12.03.2003 but the order dated 12.03.2003 was not made available to the applicant until 17.08.2010 and thereafter, the applicant applied for the copy and obtained the same on 07.06.2011. This plea is also per se illegal and contrary to the facts as endorsement is made to the applicant in the order dated 12.03.2003. Even otherwise also, if the applicant slept over his right for such a petty long time, the plea taken by the applicant for seeking condonation of delay does not survive. The Hon'ble Supreme court in the case of **D.C.S. Negi vs. Union of India & Others** decided on 07.03.2011 [Petition(s) for Special Leave to Appeal (Civil) No. 7956/2011] has held as under:-

"Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the applications filed under section 19 of the Act in complete disregard of the mandate of Section 21, which reads as under:

"21. Limitation. - (1) A Tribunal shall not admit an application, -

- (a) in a case where a final order such as it is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-



section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of said period of six months.

- (2) Notwithstanding anything contained in sub-clause (1) where-
 - (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
 - (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

The application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or as the case may be, clause (b) of sub section (1) or within a period of six months from the said date, whichever period expires later.

- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

A reading of the plain language of the reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clause (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21(3)."

6. Thus as per the observations made by the Hon'ble Supreme Court, this Tribunal is bound to examine and consider the fact as to



whether the OA has been filed within time limit after being satisfied with the reasons stated in the MA for condonation of delay.

7. Even on merit also, the present OA does not survives in view of the proposition laid down in various judgments rendered by the Hon'ble Supreme court. In the case of **Umesh Kumar Nagpal vs. State of Haryana & Others**, 1994 SCC (L&S) 930, the Hon'ble Supreme Court held that the whole object of granting compassionate employment is to enable the family of the deceased to tide over the sudden financial crisis and to provide employment. The Supreme Court further held that mere death of an employee in harness does not entitle his family to compassionate appointment. The committee must consider as to whether the family of deceased employee is able to meet financial crisis resulting from employee's death. In **Sanjay Kumar vs. State of Bihar**, 2000 SCC (L&S) 895, the Hon'ble Supreme Court held that there cannot be reservation of a vacancy till such time as the petitioner becomes a major and after a number of years unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.

8. Apply the ratio decided by the Hon'ble Supreme Court here in the instant case, the applicant's father died on 24.09.1999, as is evident by the Death Certificate (Annexure A/2) filed alongwith the OA. Application for compassionate appointment has been made by the applicant on 24.04.2000 and the same was rejected vide order dated 12.03.2003. Thus for more than a decade, the family is able to maintain themselves. Thus in view of the ratio decided by the Hon'ble



Supreme Court, we are of the view that after such an inordinate delay, appointment on compassionate ground cannot be granted to the applicant. The Committee after objective assessment of financial condition of the family of the applicant did not find the family in indigent condition and hence the case of the applicant for grant of appointment on compassionate ground was rightly rejected by the respondents vide order dated 12.03.2003 which requires no interference by this Tribunal.

9. Thus the present OA deserves to be dismissed not only on the ground of delay but also deserves to be dismissed on merit. Consequently, the OA is dismissed as observed hereinabove.

10. In view of the order passed in the OA, no order is required to be passed in MA No. 172/2011, which is also dismissed accordingly.

K.S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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