

**OA 570/2013
With MA 262/2013**

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**OA 570/2013
With MA 262/2013**

**Order reserved on : 20.04.2016
Date of order : 28.04.2016**

Coram

Hon'ble Ms. Meenakshi Hooja, Member (A)

Sudhir Kumar Meena son of Late Shri Kanchan Ram Meena, age about 29 years, residence of village Ronpur, PO Butiyana, via Barodimio, District Alwar.

.....Applicant

(By Advocate Mr. Kamal Kant Sharma, Proxy Counsel)

VERSUS

1. Union of India through Secretary, Ministry of Defence, Government of India, New Delhi.
2. Deputy CDA (AN), Office of Principal CDA Western Command, Chandigarh.
3. Accounts Officer (AN) Office of the PCDA (WC) Chandigarh.

.....Respondents

(By Advocate Mr. Rajendra Vaish)

ORDER

Heard on MA No. 262/2013 filed in OA No. 570/2013. Ld.

Proxy Counsel appearing on behalf Counsel for applicant submitted that the MA No. 262/2013 has been filed for condonation of delay. In this regard he submitted that the applicant's father died on 25.10.1996 (reference Annexure A/1A) while in service of the Respondent Department and at that time the applicant and the

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other children were minor. After attaining the age of majority in the year 2002 (Date of Birth being 15.07.1984) the applicant filed an application for compassionate appointment (Annexure A/2) and his mother also filed an application for compassionate appointment for the applicant vide letter dated 15.11.2002 (Annexure A/3). The mother of the applicant also responded to the queries made by the Respondents Annexure A/4 dated 27.11.2002, vide her letter dated 30th June 2003 (Annexure A/5). However, the case of the applicant was rejected vide Annexure A/6 letter dated 21.07.2003 addressed to the mother of the applicant on the ground "that he is not entitled for such employment in violation of rules and order on the subject" and that her son has been informed vide letter dated 28.05.2003. Counsel for applicant submitted that a legal notice dated 20.11.2010 (Annexure A/9) was filed on behalf of the applicant's mother and the same was rejected only on the grounds of delay vide letter dated 25.01.2011 (Annexure A/1). Counsel for applicant submitted that after rejection of legal notice the applicant could not contact the advocate and therefore he could file the OA only in July 2013 and two years of delay is bona fide and genuine as brought out in the MA filed for condonation of delay. He further submitted that the applicant is only 8th pass and was not aware of the legal technicalities and prayed for the MA being allowed and OA being heard on merit.

2. Per contra, counsel for Respondents submitted that the father of the applicant died on 25.10.1996 and the first application

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for compassionate appointment were filed by the applicant and the applicant's mother in the year 2002 (Annexure A/2, A/3) and after due consideration the same was rejected and the mother of the applicant was informed vide letter dated 21.07.2003 (Annexure A/6) and the applicant was informed earlier vide letter dated 28.05.2003. The applicant did not file any OA against letter dated 28.05.2003 or 21.07.2003 (Annexure A/6) and filed only legal notice dated 20.11.2010 in the year 2010 (Annexure A/9) after 07 years which was duly considered and rejected vide letter dated 25.01.2011 (Annexure A/1). Thus from seven years between 2003 to 2010, the applicant did not pursue his case even though he became major in the year 2002 itself and now he has filed the OA after a further delay of two years even after rejection of his legal notice vide Annexure A/1 letter dated 25.01.2011. Not having knowledge of law or legal technicalities is no ground because the legal notice filed by the applicant was through an advocate and further not being able to contact an advocate for two years does not appear to be a genuine bonafide or cogent reason that can explain the delay in filing the OA two years after rejection of legal notice. Counsel for Respondents submitted that thus the case of the applicant is hopelessly time barred and therefore MA for condonation of delay deserves to be dismissed and in this context he referred to the judgement of the Hon'ble Apex Court in the case of Bhoop Singh Vs Union of India and ors. 1992(3) SCC 322 in support of his contention wherein it has been upheld that "inordinate and unexplained delay or laches is by itself a ground to

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defuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief". On the said basis counsel for Respondents prayed for the dismissal of the MA as well as OA.

3. Considered the aforesaid contentions and perused the records. It is noted that after the death of the applicants father on 26.10.1996, the applicant on attaining majority, applied for compassionate appointment vide Annexure A/2 (date of the application not clear) and his mother also requested for the same vide her letter dated 15.11.2002 (Annexure A/3). The mother of the applicant was informed by the Respondents of the rejection of the case vide letter dated 21.07.2003 (Annexure A/6) in which it was also mentioned that the applicant has already been informed vide letter dated 28.05.2003. Both these letters were also sent to the applicant's mother at her new changed address vide letter dated 17.11.2003 (Annexure A/8) as per her request made by her vide letter dated 14.11.2003 (Annexure A/7). It is seen that after rejection of the case of the applicant for compassionate appointment as informed to his mother vide letter dated 21.07.2003 (Annexure A/6) and earlier letter to the applicant dated 28.05.2003 and again at the new changed address vide letter dated 17.11.2003 (Annexure A/8) no action was taken on this by the applicant to challenge the same for almost seven years.

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Thereafter, after a delay of seven years, a legal notice dated 20.11.2010 (Annexure A/9) was sent to the Respondents for demand of justice on behalf of the mother of the applicant which was also rejected vide letter dated 25.01.2011 (Annexure A/1). Filing a legal notice after seven years of the rejection of the case of applicant for compassionate appointment by the competent authority, is itself a case of prolonged delay for which no justified explanation has been given because the relevant communications were also sent by the Respondents to the applicant's mother vide letter dated 17.11.2003 (Annexure A/8) at the new changed address. Further filing the present OA in July 2013, i.e. more than two years after the rejection of the legal notice does not in any way rescue the applicant from the applicability of the laws of limitation. The grounds taken in the MA that the applicant could not contact the advocate and is not aware of legal technicalities cannot be considered as genuine bonafide or cogent because the mother of the applicant had filed legal notice through the advocate and the applicant has filed the OA more than two years after the rejection of the legal notice (Annexure A/1) and nearly 10 years after the case for compassionate appointment was rejected by the Respondents vide Annexure A/6 dated 21.07.2003 and the decision again communicated at the changed address vide letter dated 17.11.2003 (Annexure A/8).

4. Thus keeping in view the facts and circumstances of the case as analyzed above and the judgement of the Hon'ble Apex Court in

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the case of Bhoop Singh Vs Union of India 1992(3) SCC 322 as referred to by counsel for Respondents, the entire case appears to be hopelessly time barred and accordingly the MA No. 262/2013, lacking in merit, is dismissed. Consequently the OA No. 570/2013 also stands dismissed. No order as to costs.



(MS.MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

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