

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA-2977/2017
MA-3133/2017
MA-3673/2017
MA-585/2018**

Reserved on : 19.04.2018.

Pronounced on : 27.04.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Ali Nadeem Usmani, 29 years
S/o Late Sh. Iqbal Ahmed,
H.No. 3545, Main Street,
Raghuveer Enclave,
Village-Pasonda, Shahibabad,
Ghaziabad, UP. PIN-201005.

.... Applicant

(through Sh. Manohar Pratap, Advocate)

Versus

Govt. of NCT of Delhi through
Secretary,
Services Department (II)
Delhi Secretariat,
5th Level : A-Wing,
I.P. Estate, New Delhi.

..... Respondent

(through Ms. Deepika, Advocate)

O R D E R

MA-3133/2017

This application has been filed seeking condonation of delay in filing seeking condonation of delay in filing OA-2977/2017.

2. Briefly stated, the facts of OA-2977/2017 are that the applicant is seeking appointment on compassionate grounds. The father of

the applicant died on 29.08.2009 while working on the post of Assistant Director (Tehsil-Building). On 07.05.2010, the applicant made a representation to the respondents for compassionate appointment along with all required documents. Vide letter dated 02.06.2010, the applicant was asked to provide the following documents:-

- (i) Copy of the Ration Card.
- (ii) Photo of the applicant.
- (iii) NOC from other family member.
- (iv) Copy of the pension payment order.

3. On 08.06.2010, the applicant provided the requisite documents. Vide letter dated 27.01.2011, the applicant was informed that Screening Committee in its meeting held on 20.10.2010 and 09.12.2010 has not recommended his case for appointment on compassionate ground. It was also mentioned that his case will be placed before the Committee in the next meeting. On 12.06.2012, the applicant again received a letter stating that the Screening Committee in its meeting dated 17.02.2012 and 30.03.2012 has not recommended his case. On 26.08.2013, the applicant again made a representation for reconsideration of his case to the respondents.

4. It is informed that on 27.08.2013, the mother of the applicant made a representation to the then Chief Minister of Delhi (Smt. Sheila

Dixit). Vide letter dated 20.12.2013, the applicant was informed that his case for compassionate appointment has been rejected. The O.Ms dated 16.01.2013 and 30.05.2013 by the Govt. of India. Were cited as the reasons for doing so. Through the information received under RTI, the applicant came to know that compassionate appointments have been made but his case has been rejected. Hence, the applicant filed a Writ Petition before the Hon'ble High Court of Delhi vide diary No. 261402/2017. Registry of the Hon'ble High Court took an objection that the same is not maintainable and asked the applicant for redressing his grievance before the Tribunal. Therefore, the applicant withdrew the Writ Petition before the Hon'ble High Court and approached the Tribunal by filing the current O.A. The applicant filed MA-3133/2017 for condonation of delay.

5. The respondents have opposed the M.A. stating that the current O.A. has been filed after a lapse of 954 days (lapse of almost three years) and is hit by limitation. They submit that there are a large number of judgments wherein the Court beyond the statutory period prescribed under law, the O.A. should be dismissed with heavy cost. Since the applicant has not been able to give justifiable cause for delay, his application is liable to be dismissed being violative of Section 21 of Administrative Tribunals Act, 1985.

6. The respondents have relied upon the judgments of Hon'ble Supreme Court in the cases of **State of Punjab Vs. Gurudev Singh**, 1991(4) SCC 1 and **Captain Harish Uppal Vs. UOI**, JT 1994(3) 126, **D.C. S.Negi Vs. UOI**, (SLP (Civil) No.7956/2011 CC No.3709/2011) dated 11.3.2011 etc. The respondents further aver that on merit too the case of the applicant is on weak footing since his case for compassionate appointment was considered by various Selection Committees constituted for this purpose and rejected on merit. The applicant was informed about the outcome each time, the last communication being of 20.12.2013.

7. I have heard the learned counsels for the parties on condonation of delay and examined the material placed on file.

8. I will proceed by considering the preliminary objection of the respondents regarding O.A. being barred by limitation. In MA-3133/2017, the applicant admits that there was a delay of 954 days in filing OA-2977/2017. By way of explaining the delay, the applicant has produced two medical certificates (in MA-585/2018) issued by Ambay Hospital, Ghaziabad. One certificate dated 17.01.2018 is with regard to treatment of the applicant's sister Ms. Nargish Fatima. This certificate states that:-

“Ms. Nargish Fatima age 28 Yrs/Female, D/o Late Shri Iqbal Ahmed, R/O 3545, Raghuvir enclave, Village Pasonda, Sahibababad, GZB, U.P. 201005. On basis of records she was under treatment for GB Stone w.e.f. 29/07/2013 to 07/09/2014 & was operated on 05/09/2014. She was under supervision of Dr. Neelaksh Sharma.”

The second medical certificate is also dated 17.01.2018 from the same hospital regarding his own treatment. It reads as under:-

"Mr. Ali Nadeem Usmani age 29 Yrs/Male, S/o Late Shri Iqbal Ahmed, R/o 3545, Raghuvir enclave, Village Pasonda, Sahibababad, GZB, U.P 201005. On basis of records he was under treatment for GB Stone and renal stone also w.e.f. 09/10/2013 to 22/10/2016 & was operated on 20/01/2016. He was under supervision of Dr. Neelaksh Sharma."

From a perusal of both these certificates, it is apparent that the medical issues of the applicant and that of his sister were not of a nature, which would have stopped the applicant from performing his day today functions in a normal manner. To state that the delay of almost 03 years is on account of the aforementioned medical problem is obviously not convincing.

8.1 As per Section-21 of the Administrative Tribunals Act, 1985, the delay and laches must be explained to the satisfaction of the Court for seeking condonation. Law prescribes certain parameters to be met with before the applicant can approach a judicial forum for redressal of his grievance. The most important of them is the factum of limitation. Section-21 of the AT Act deals with this and reads as under:-

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

(a) In a case where a final order such as 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 the said period of six months.

(2) Notwithstanding anything contained in sub-section (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 subsection (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."

8.2 There are numerous judgments on the subject, some of which have already been referred to by the respondents. The underlying theme of the judicial pronouncements in all the cases is that the Court/Tribunal cannot give aid to the rights and remedies promptly if the claimants slumber over their rights.

9. I find that the applicant's case for compassionate appointment has been considered by various Screening Committees

i.e. on 20.10.2010 and again on 17.02.2012 and 30.03.2012. After consideration, the case for compassionate appointment of the applicant was rejected by these Selection Committees.

10. In the light of the foregoing discussions, the present MA for condonation of delay is rejected on the ground of delay and latches. Since MA-3133/2017 seeking condonation of delay in filing OA-2977/2017 has been dismissed, OA-2977/2017 is also dismissed. No costs.

(Praveen Mahajan)
Member (A)

/Vinita/