

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 560/2017

DATE OF DECISION:- 10th July, 2018

Coram:- Hon'ble Shri. R. Vijaykumar, Member(A)

Shri. Arvind Kumar Babulal Kuril

S/o. Shri. Babu Lal Kuril

Service:- Nil,

Room No.2, Laxmandas Chawl,

Kalakilla Road, Dharavi 90 Ft Road,

Mumbai 400017.

.....Applicant

(Applicant by Advocate Smt. Ranjana Todankar)

Versus

1. Union of India,

Through the Secretary,

Ministry of Health & Family Welfare,

Nirman Bhavan, New Delhi 110001.

2. Director General

ESIC Head Quarter

Panchdeep Bhawan, C.I.G. Road,

New Delhi 2.

3. Dy. Director

Employees state Insurance Corporation

Panchdeep Bhawan, C.I.G. Road,

New Delhi 2.

4. Medical Superintendent

Employeeed State Insurance Corporation

Model ESI Hospital, MIDC,

Andheri (East) Mumbai 400093.

.....Respondents

(Respondents by Advocate Shri. V.D.Vadhavkar)

ORDER (ORAL)

1. Today, when the matter was called out for hearing, Smt.

Anita Murgude, learned proxy counsel appeared on behalf of

Smt. Ranjana Todankar, learned arguing counsel for applicant.

2. Shri.V.D. Vadhavkar, learned counsel for Respondents.

3. The learned proxy counsel for applicant pleaded that she had been instructed to appear and ask for adjournment but was not ready to defend the matter. It is noted that ever since this case was filed and admitted on 06.10.2017, the arguing counsel Smt. Ranjana Todankar have never appeared. On the date of admission on 06.10.2017, the applicant had been asked to enclose the relevant rules under which such compassionate appointment was claimed but these have not been enclosed so far despite hearings held on 30.10.2017, 05.12.2017, 24.01.2018, 02.04.2018, 26.04.2018, 22.06.2018, 05.07.2018 and today. In the face of fierce resistance by the learned counsel for applicant to appear in this matter and to provide the necessary materials to enable the consideration of this case, the learned counsel Shri. V.D.Vadhavkar, was heard. The learned counsel for respondents refers to his reply which sets out the basis for rejection of the claim for applicant.

4. The applicant's father died on 26.11.2012 while in the service of the respondents. The family of the applicant consists of wife and six sons. First two sons are already employed. The third son is in their village and is looking after the agricultural land of three bighas and staying in family's house therein. The fourth son is the applicant who had studied upto 12th standard and is reported to be doing some temporary work and other two sons are studying in colleges at Mumbai.

The family staying in a chawl house, reportedly owned by them and they are staying in the ground floor while renting out the first floor at Rs. 5,000/- per month. The applicant's case was considered by the Committee on 3/5.02.2014 and not found indigent.

5. The respondents have urged the issue of limitation. The late employee expired on 26.11.2012 and application was made for compassionate appointment on 22.05.2013. The application was rejected latest on 05.02.2014. The OA has been filed on 05.05.2017 which renders it more than two years beyond the time limit fixed and therefore, attracting Section 21 of the Administrative Tribunals Act. No application has also been filed by the applicant for condonation of delay.

6. It is incumbent for this Tribunal to consider the primary issue of condonation of delay before considering various aspects of the merits of the case of the applicant. Since this case is clearly showing time barred and no explanation for delay is forthcoming, the OA is dismissed on the ground of limitation. No costs.

(R. Vijaykumar)
Member (A)

srp