

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Dated: This the 12th day of March 2019

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Original Application No. 330/00980 of 2018

Anil Kumar Patel son of Late Mauji Lal, Resident of Village and Post – Ghodedeeh, Police Station – Karchhana, District - Allahabad.

.....Applicant

By Adv: Shri Shiv Lal Verma

Versus

1. Union of India through Secretary, Ministry of Communication, Government of India, New Delhi.
2. Assistant General Manager (Recruitment), Bharat Sanchar Nigam Ltd. U.P. (East) Telecom Circle, Hazarat, Lucknow – 226001.
3. General Manager (Telecom), Bharat Sanchar Nigam Limited – Mirzapur, District – Mirzapur.
4. Assistant General Manager (Administration), Bharat Sanchar Nigam Ltd., General Manager Telecom, District – Mirzapur.

.....Respondents

By Adv. Shri D.S. Shukla

O R D E R

BY HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

1. This order disposes of the application filed by applicant Anil Kumar Patel seeking condonation of delay in filing the O.A. in which he sought the following reliefs:
 - (i) To allow the applicant and set aside the order dated 22.08.2015 and 31.08.2015 (Annexure No. 1) passed by respondent No. 2 and 4 and the respondents may be directed to reconsider the claim of the applicant for providing compassionate appointment on the suitable post under Dying in Harness Rules, within specific period as may be fix by this Hon'ble Tribunal.
 - (ii) To pass any other direction as this Hon'ble Tribunal may deem fit and proper on the facts and circumstances of the case in the interest of justice.

2. Case of applicant Anil Kumar Patel is on the death of his father Mauji Lal who died on 19.02.2013 while working in the respondent-department, application was filed in the department for appointment of applicant on compassionate basis, however, the application was rejected by the respondents vide order dated 22.08.2015 and 31.08.2015, which rejection is the subject matter of the present O.A. The reason for rejection of application was that the applicant received 33 points whereas the minimum requirement is 55 points, as such, he could not be given the compassionate appointment.
3. Applicant challenges the impugned order on the ground that applicant has been assessed incorrectly by the respondent while awarding 33 points whereas he is entitled to a minimum of 55 points as Point System adopted by the respondents. Hence the present O.A. challenging the decision to reject his candidature by awarding him wrong points. Applicant's specific grouse, as per, paragraph No. 14 being "That the financial status and living style of the family is very poor. Only after receiving the terminal benefits of the father of applicant she constructed 2 rooms. The Committee awarded lesser points."
4. The rejection order passed in 2015 has been challenged by filing the present O.A. in the year 2018. The reason given by the applicant for the delay in filing the O.A. is that since the financial position of the family of applicant was very weak, he could not approach the Tribunal within the period of limitation and since the delay has not been deliberate or intentional, it be condoned.

5. In their objections, respondents have taken the plea that the applicant has not properly explained the delay in approaching the Tribunal nearly after three years from the date the cause action accrued to him, as such, the delay cannot be condoned and the case deserves dismissal.
6. I have heard and considered the arguments of the learned counsels for the parties and gone through the material on record.
7. Looking to the reason given for the delay in filing in the O.A. and the fact that applicant would not gain anything by filing the O.A. beyond the period of limitation, I am of the opinion that the delay in filing the O.A. has not been deliberate or intentional but seems apparently on the basis of the adverse financial condition of the applicant. In these circumstances, the applicant has given good and sufficient reasons for the delay in filing the O.A. The delay is condoned. Learned counsel for respondents is directed to file the counter affidavit within a period of 4 weeks. Put up file for further proceedings on

(Rakesh Sagar Jain)
Member (A)

/Shashi/