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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION No.614/2018**

**Date of Decision: 1<sup>st</sup> May, 2019**

**CORAM: R. VIJAYKUMAR, MEMBER (A)**

Aniket Vijay Kamble  
Son of Late Shri Vijay Thalu Kamble,  
Kupwad Road, Opp. Gidrej,  
Durga Nagar, M.I.D.C., Miraj,  
Miraj - 416 410. . . . . **Applicant**

*(By Advocate Ms. Neelima Gohad)*

**Versus**

1. The Union of India,  
Department of Posts,  
Dak Bhawan, Sansad Marg,  
New Delhi - 110 001.
2. The Chief Post Master General  
O/o The Chief Post Master General,  
Maharashtra Circle, Mumbai - 01.
3. The Superintendent  
R.M.S. 'BM' Division,  
Miraj - 416 410.
4. The Post Master General  
Goa Region,  
Panaji - 403 001 . . . . . **Respondents**

*(By Advocate Shri R.R. Shetty)*

**ORDER (ORAL)**

This application has been filed by the applicant on 04.09.2018 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

*"8(a) To allow the present Original Application.*

(b) To quash and set aside the impugned orders dated 07.02.2018, 18.02.2018 and 30.09.2016 issued by respondent No.2.

(c) To direct respondents to produce the records and proceedings of CRC held on 08.11.2006 and on perusal of the same hold and declare that consideration of applicant's case was not as per the law.

(d) To direct the respondent to reconsider the applicant's case for compassionate appointment.

(e) To pass any other just and appropriate orders,

(f) To award the cost of the application."

2. The applicant is the 3<sup>rd</sup> child and elder son of the deceased who demised on 13.03.2003 while in service and his mother who was then aged 36 years applied for compassionate appointment on 26.05.2003 which was eventually considered by the respondents in their Circle Relaxation Committee held on 04.11.2006 and 08.11.2006 and the Committee's decision was communicated in their letter No. Rectt/4-4/31/05 dated 20.06.2007 (Exhibit A-5) advising as under:-

"1. The family of deceased Government servant is not in indigent condition.

2. The case was rejected for want of vacancies under relaxation quota.

3. The candidate cannot be absorbed within a period of one year. The case cannot therefore be considered keeping in view the instructions contained in DoPT No. 14014/18/2000-Estt.(D) dt.22.06.2001.

*The relaxation cases are limited to 5% of the Direct Recruitment quota. The appointment is given under relaxation quota in an exceptional situation in most deserving cases in which a Govt. servant dies in harness leaving the family in indigent condition and deserves immediate assistance for relief from financial destitution."*

3. The applicant's elder sister and elder child of the family was 14 years at the time of his father demise and applicant himself was 12 years old at that point of time. The mother of the applicant did not file any appeal against the order of the committee nor did they seek legal remedies. The applicant then filed a representation seeking compassionate appointment in letter dated 08.12.2010 which was examined by the respondents and a reply furnished to him in letter No.B-71/Rectt/Relx/IV/KVK/04 dated 05.01.2011 advising him that the decision of the CRC had already been communicated to him on 27.06.2007.

4. Learned counsel for the applicant submits that this letter was not served on the applicant but produces no evidence in support. In particular, in the context of this MA No.523/2018 for condonation of delay which is being considered at this

point in time in these proceedings, no appeal or proof of attempts to pursue remedies in the matter are shown to have made subsequent to the application dated 08.12.2010 or the reply dated 05.01.2011 and the applicant has clearly slept over his rights. By this time, the applicant's sister had became adult in 2007 when her mother's application rejected and the applicant himself became adult in 2009 which is just prior to his application for compassionate appointment.

5. The applicant has passed SSC in 2010 and then he has filed a representation dated 26.12.2017 seeking compassionate appointment to which the respondents have replied in their impugned orders No.RE/4-4/31/05 dated 07.02.2018 stating that the matter cannot be re-opened and that there is no provision to consider the case of other members from the same family.

6. Learned counsel for the applicant was heard on the reasons offered in the MA No.523/2018 for condonation of delay. Learned counsel for the respondents was also heard at length on the preliminary

issue of condonation of delay which is necessarily to be decided by this Tribunal before considering merits as ruled by the Hon'ble Apex Court in **DCS Negi Vs. Union of India & Ors, (2018) 16 SCC 721 dated 07.03.2011**. On this aspect, the respondents have incorporated their reply to the main OA, their reply on MA for condonation of delay.

**7.** We have carefully considered the facts and circumstances, law points and rival contentions in the case.

**8.** Even at the outset when the respondents passed their orders of rejection of the request for compassionate appointment of the mother of the applicant in 2007, no legal remedies or departmental remedies are seen to have been sought. The cause of action is clearly arising from this letter dated 20.06.2007 which is stated to have been sent on 27.06.2007. The delay of about 10 years remains unexplained. The first representation was filed by the son in 2010 and the respondents referred back to their earlier rejection. Even to this reply, no legal or

departmental remedies were sought. Finally, after his mother expired on 19.11.2017, the present applicant has again applied and he was also given a reply on similar lines in respondents' letter which has now been impugned. However, it is settled law that repeated representations and reply obtained thereon cannot serve as the basis for avoiding the charge of limitation. In this case, there is a full 10 years delay in filing this application. Further, the entitlement for compassionate appointment is by virtue of a beneficial provision by the Government and as a deviation from the Constitutional scheme. It is not an entitlement that can be inherited by any one of the children of the deceased and is intended purely to tide over the distress situation caused by the death of the sole bread-winner of the family, who in this case, died in March 2003, fifteen years ago. The respondents have considered his family situation in 2003-2007 and have found them as not indigent. No appeal has been filed against that decision and purely from the aspect of delay and laches, this

OA is barred by limitation and is, accordingly, dismissed without any order as to costs. MA No.523/2018 also stands dismissed.

(R. Vijaykumar)  
Member (A)

ma.

*R. Vijaykumar*

