(OA No. 061/00647/2018
& M.A. No. 061/00831/2018)

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
...
M.A. No. 061/00831/2018 in
ORIGINAL APPLICATION N0. 061/00647/2018

Chandigarh, this the 4th day of April, 2019

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. P. GOPINATH, MEMBER (A)**
...

1. Bhagwati Devi wd/o of late Ashok Paul, age 68

2. Raman Bhardwaj son of late Sh. Ashok Paul both c/o Sh. Onkar
   Pathania, House No. 315, near Shiv Mandir, Hari Singh Nagar,
   Rehari Colony, Jammu, J & K 180005 age 31, Group-D.

....APPLICANTs

(By Advocate: Shri Upender Prasher)

VERSUS

1. Union of India through its Secretary, Department of
    Telecommunication, Sanchar Bhawan 20, Ashoka Road, New
    Delhi.

2. Director Telegraphs (HRD) J & K Circle, Jammu # 541,
    Sector 4, Channi Himmat, Jammu, 160015.

3. BSNL Corpoation Office, LE Studio Bharat Sanchar, Bhawan
    Harish Chandar Mathurlane, New Delhi 110001.

4.   Chief General Manager BSNL, J & k Circle, 4th Floor North
    Block, Bahu Plaza, Rail Head Complex, Jammu Tavi.

5. General Manager, BSNL, Jammu, Gole Market, Gandhi
    Nagar, Jammu.

6. Sub-Divisional Officer Phones 1st BSNL Jammu Vidhata
    Nagar, Trikuta Nagar, Jammu 180004.

....RESPONDENTS

(By Advocate: Shri K.K. Thakur for respondent no. 1)
              Shri D.R. Sharma, for respondent no. 2-6

ORDER (oral)

SANJEEV KAUSHIK, MEMBER (J)

The present Original Application (O.A.) has been filed by the applicants impugning the communication dated 6.12.2010, order dated 25.10.2010 (Annexure A-1 colly) and communication dated 10.1.2013 and order dated 31.10.2012 (Annexure A-2 colly), whereby the case of the applicant no.2 has been rejected for appointment under the compassionate scheme.

2. Alongwith the O.A., the applicants have also filed M.A. No. 061/00831/2018, seeking condonation of delay of 1595 days in filing the O.A.

3. This Tribunal, on first instance, issued notice in application for condonation of delay, to which the respondents have filed reply.

4. We have heard the learned counsel for the applicant as well as learned counsel for the respondents on the M.A. for condonation of delay.

5. Sh. Upender Prashar, learned counsel appearing on behalf of applicants vehemently argued that there is no delay in filing the O.A. as the appeal (Annexure A-10) filed by the applicants against order dated 31.10.2012 (Annexure A-2) is pending adjudication before the respondents in terms of their own circular dated 27.6.2007 (Annexure A-9) whereby they themselves invited representation or appeal for reconsideration of matter on net points system in terms of weightage points system. Therefore, he argued that since there is no delay on the part of applicants in

approaching the respondents, as the representation has not been decided till date, as such the present M.A. be allowed and delay in filing the present O.A. be condoned.

6.   On the other hand, Sh. D.R. Sharma, learned counsel appearing on behalf of BSNL, vehemently opposed the prayer for condonation of delay and submitted that the applicants have sought to condone the day of 1595 days which in fact is not correct. He submits that if the delay is counted from 2012 then it comes to be more than 5 ½ years as the husband of the applicant no1. and father of applicant no. 2 died on 25.5.2006, after rendering 19 years service. Immediately thereafter the applicant no. 2 submitted his application on 4.7.2006 in the prescribed proforma for consideration of his case for appointment under compassionate appointment scheme which has been turned down on 25.10.2010 (Annexure A-1), whereby the applicant no. 1 was advised to move a fresh application for consideration for appointment, if so desire. It is, thereafter, the applicant no. 1 has moved application which has been turned down vide order dated 3.10.2012 (Annexure A-1 colly) against which the representation/appeal has been filed. He further argued that the appeal has been filed before the CGMT, which is inferior authority, than the authority who has decided the claim of the applicant by the impugned order i.e. the Corporate Office. Therefore, he submitted that the plea of the applicant that his appeal is pending cannot be accepted and as such prayed that the M.A. be dismissed. To buttress his plea, he has referred to judgment of Hon'ble Supreme Court rendered in the case of **The**

Govt. of India & Anr. Vs. P. Venkatesh (Civil Appeal NO. 2425 of 2019) decided on 1.3.2019 where their Lordships has held that the High Courts, Tribunals Lower Courts not to entertain the belated petitions for grant of compassionate appointments.

7.   We have given our thoughtful consideration to the entire matter and have gone through the averments made in the M.A. for condonation of delay. We find substance in the argument raised at the hands of learned counsel for respondents. Since the father of the applicant no. 2 had died in the year 2006 and his application for grant of compassionate appointment had been rejected on 25.10.2010 and again in the year 2012 by the authority who is highest in the hierarchy of the respondent department, therefore, no appeal lies for consideration to the inferior authority. Therefore, the plea of applicant for condonation of huge delay cannot be accepted.

8.   Section 21 of the Administrative Tribunals Act, 1985 came up for consideration before Hon'ble Supreme Court wherein the Lordships in the case of **Union of India vs. M.K. Sarkar** (2010) 2 SCC 66 have held that limitation has to be applied rigorously and successive representations will not extend the cause of action. Though sub-section 3 of Section 21 gives window to an aggrieved person to approach this forum even after delay, but he has to give proper reason in support of his plea, so that Court can condone the delay.   Since, this O.A. has been filed after the delay of more than 13 years i.e. without cogent reason for condoning the delay, we find

no reason to allow the huge delay in filing the instant O.A. Accordingly, the M.A. is dismissed being devoid of merits. Consequently, O.A. stands dismissed. Pending M.A., if any, also stands disposed of.

    (P.GOPINATH)   **(SANJEEV KAUSHIK)**
    MEMBER (A)   **MEMBER (J)**

Dated: 04 .04.2019
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