

(2018) 11 CAT CK 0025

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 60, 715 Of 2018, Original Application
No. 60, 540 Of 2018

Pankaj Kumar

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 26-11-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19, 21, 21(3)

Citation : (2018) 11 CAT CK 0025

Hon'ble Judges : Sanjeev Kaushik, J;P. Gopinath, J

Bench : Division Bench

Advocate : Chander Shekhar, Yogesh Putney

Final Decision : Dismissed

Judgement

1. Present O.A. has been filed by the applicant impugning letters dated 17.09.2013 (Annexure A-4), 14.02.2015 (Annexure A-9), 26.05.2015 (Annexure A-11) and 10.07.2015 (Annexure A-13), whereby his case for appointment on compassionate grounds has been rejected.

2. Along with the O.A., the applicant has moved M.A. seeking condonation of delay of 815 days in filing the O.A.

3. This Court at the first instance issued notice in application for condonation of delay to which the respondents have filed reply. It is borne out from the record that Smt. Sumitra Devi, who was working with Railways, was declared medically unfit on 26.10.2013. Vide application dated 26.02.2013, she took voluntary retirement and was relieved from duty on 18.03.2013. At that time, she moved application for appointment of her son Pankaj Kumar on compassionate grounds on her being declared medically unfit. The case of the applicant was proceeded and he was called for interview on 29.06.2013 and ultimately his case was rejected on 17.09.2013 on the ground that he failed to establish that he was son of Smt. Sumitra Devi. Thereafter, applicant filed Civil Suit seeking declaration

decree from Civil Court and vide decree dated 30.10.2014 he was declared the adopted son of Smt. Sumitra Devi since 1987. Thereafter, applicant submitted representation on 07.11.2014 followed by reminder dated 02.12.2014, which was rejected on 14.02.2015 (Annexure A-9). Instead of approaching the Court, he again submitted representations dated 02.3.2015, 26.5.2015, which were also rejected vide letter dated 10.07.2015 (Annexure A-13).

4. In support of the application, learned counsel for the applicant submitted that since applicant got decree in his favour on 30.10.2014, therefore, he has calculated delay from that date.

5. Per contra, learned counsel for the respondents vehemently opposed the prayer and submitted that it is not a continuing cause of action and repeated representations cannot extend limitation. To buttress his plea, he placed reliance judgment of the Hon"ble Supreme Court in the case of S.S. Rathore vs State Of Madhya Pradesh 1990(4) SCC 582 and R.C. Sammanta and Ors. Vs. UOI and Ors. JT 1993 (3) SC 418. He submitted that claim of the applicant was firstly rejected on 17.09.2013 and subsequently on 14.02.2015. Even after getting decree in his favour, to which also respondent doubt, as it was obtained ex-parte, where Railway was not a party and adoption decree is also bad in law in terms of Rule 11 (i) of Hindu Adoption & Maintenance Act, 1956 as Smt. Sumitra Devi was having another living son. Therefore, he prayed that this application be dismissed.

6. We have gone through pleadings and arguments advanced by learned counsel for the parties.

7. Law prescribes certain bars for approaching a judicial forum. The most important of them is the bar of Limitation. Section 21 of the Administrative Tribunals Act, 1985, (for brevity "the Act") provides this bar. It is inconceivable that a litigant may come at any time before a Court and claim adjudication of his/her grievance, thereby unsettling the matter which has already been presumed to have come to a rest. In the case of Union of India versus Harnam Singh (1993(2) S.C.C. Page 162), the Hon"ble Apex Court has held that "the Law of Limitation may operate harshly but it has to be applied with all its rigour and the Courts or Tribunals cannot come to aid of those who sleep over their rights and allow the period of Limitation to expire." As per Section 21 of the Act an Application under Section 19 of the Act can be filed within one year from the date of cause of action, which can be extended by another six months if any statutory appeal or revision is pending. Beyond that an application for condonation of delay as provided under Section 21(3) of the Act is to be filed with sufficient cause. The delay and laches must be explained to the satisfaction of the Court for seeking condonation as held in the case of Bhup Singh versus Union of India & Ors. (1992 A.I.R. S.C. Page 1414). Section 21 of the Act, came up for consideration before the Hon"ble Apex Court in the case of Union of India & Ors. Versus M.K.Sarkar (2010(2) S.C.C. Page 58), wherein it has again been reiterated that limitation has to be counted from the date of original cause of action and decision on a belated representation would not revive the cause of

action. The facts of this case do not offer any explanation much less convincing one to condone the delay. The applicant has not been vigilant enough to file the O.A. in time and such claims cannot be entertained by Courts. Our view is also fortified by judgment in the case of Bhup Singh (supra) Union of India & Ors. Versus M.K. Sarkar (supra) S.S. Rathore vs State Of Madhya Pradesh (supra), C. Jacob vs. Director of Geology and Mining & Anr. 2009 (10) SCC 115 and Union of India & Ors. Versus A. Durairaj (J.T. 2011(3) S.C. Page 254.

8. Since the applicant has not given any plausible explanation for not approaching the Court of law at earlier point of time, therefore, we find no reason to condone huge delay of 815 days and M.A. for condonation of delay is therefore dismissed being devoid of merit and accordingly O.A. is also dismissed being barred by time.

9. No costs.