

(2024) 05 CAT CK 0008
In the Central Administrative Tribunal
Case No : Original Application No. 114 Of 2022

Pramila Barik

APPELLANT

Vs

Union Of India, Represented Through Its Chief General
Manager, Bharat Sanchar Nigam Limited, Odisha,
Bhubaneswar, Dist ? Khordha ? 751009 & Others

RESPONDENT

Date of Decision : 16-05-2024

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21

Citation : (2024) 05 CAT CK 0008

Hon'ble Judges : Sudhi Ranjan Mishra, Member (J)

Bench : Single Bench

Advocate : S.Das, K.C. Kanungo

Final Decision : Dismissed

Judgement

Sudhi Ranjan Mishra, Member J

1. The facts of the case in brief as stated by the applicant are that the applicant's husband while serving as regular Wireman Group C under the Executive Engineer (E), BSNL, Electrical Division, Bhubaneswar expired on 28.9.2014 leaving behind the widow (applicant), three unmarried daughters and one son. After the death of the husband the applicant duly applied for her appointment on compassionate ground in the year 2018 along with all necessary documents. Respondent No.3 vide order dated 29.1.2018 rejected the prayer of the applicant on the ground that she has secured 51 weight points which is lesser than 55 weight points fixed by BSNL department. Respondent No.2 also opined on 20.3.2018 that this is not a fit case for reconsideration. The said order was communicated to the applicant on 16.6.2019. Being aggrieved the applicant approached the respondents on several occasions and since nothing fruitful has come out, she has filed the present OA.

2. The applicant is aggrieved by the order dated 16.6.2019 by which the

respondents have rejected the claim of the applicant for compassionate appointment. The applicant has prayed for the following reliefs :

(i) Admit this original application and thereby direct/order the respondents to appoint the applicant in any post commensurating to her qualification on account of the death of her husband, while in service on compassionate ground within a stipulated period, as may be fixed by this Hon'ble Tribunal for the interest of justice;

(ii) Pass such other order(s) or issue direction (s) as may be deemed fit and proper in the bona fide interest of justice.

3. Per contra, the respondents by filing their counter have submitted that the present OA is barred by limitation because the applicant has approached this Tribunal after the expiry of limitation period as per Section 21 of the Administrative Tribunals Act, 1985. It is submitted that the husband of the applicant died on 28.9.2014 and she applied for compassionate appointment on 21.9.2015. The application for appointment on compassionate ground was rejected by the respondents and the same was communicated to the applicant vide letter dated 29.1.2018. The applicant went on making representations repeatedly and she was intimated about the rejection of her prayer vide letters dated 20.3.2018 and 16.6.2019. The case is barred by limitation because the case of the applicant was considered by the Circle High Power Committee (CHPC in short), Odisha Circle and the result was communicated to her vide a reasoned order dated 29.1.2018 and the applicant has filed the present OA on 9.3.2022. Moreover, the applicant has not explained the delay. Hon'ble Apex Court in catena of judgments like D.C.S.Negi -vs- UOI & Ors. [SCP (Civil) No. 7956/2011, CA No. 3709/2011] has held that repeated representations cannot extend the limitation period. This Tribunal has also taken a similar view vide order dated 1.3.2019 passed in OA 138/2016 (Namita Dhal -vs- BSNL). Hence the present OA is liable to be dismissed on the ground of delay.

The respondents have also submitted that the case of the applicant was duly considered by the CHPC on 20.9.2017 taking into account the family condition including the assets, liabilities and number of dependents, etc. in terms of guidelines for compassionate ground appointment as per DOPT OM dated 9.10.1998 and BSNL Weightage Point System (WPS) policy vide circular dated 27.6.2007.

It is further submitted that the case of the applicant for compassionate appointment was considered by the CHPC as per the policy of 1998 and 2007 taking into account the relevant parameters and rejected the case vide letter dated 29.1.2018. Therefore since the case of the applicant has already been considered in terms of the provision of policy for compassionate ground appointment by the CHPC and approved for rejection by the competent authority, therefore no further action was felt necessary to be taken. Moreover, after the death of the husband the applicant was given Rs.20,04,00/- as death terminal

benefit and basic family pension @ Rs.7895/- + IDA per month to tide over the sudden financial crisis.

The respondents have also submitted that the case of the applicant for compassionate appointment was considered in accordance with rules and procedure. After assessment by the CHPC in accordance with the DOPT guidelines dated 9.10.1998 and WPS guidelines dated 27.6.2007, it was found that the applicant scored 54 points which was under the bench mark value of 55. As per BSNL WPS – 2007, the cases for compassionate appointment, scoring less than 55 will be rejected and hence the case of the applicant was rejected. The respondents have therefore prayed for dismissal of the present OA being devoid of any merit.

4. The applicant has filed an MA for condonation of delay stating that she being a resident of rustic village and ignorant of the procedure of law and also due to spread of COVID-19, she could not approach this Tribunal within time. She has therefore prayed for condonation of delay.

5. The respondents have filed objection to the MA stating that the applicant has failed to quantify the exact number of days of delay. Moreover, as submitted by the applicant that due to COVID-19 restrictions/lockdown she could not file the OA in proper time, is not correct. The COVID-19 lockdown was imposed in March 2020 but the cause of action arose in 28.9.2015 when her application for compassionate appointment was rejected. Hon'ble Apex Court in C.Jacob –vs- Director of Geology & Mining and Anr. [(2008) 10 SCC 115] has held that the cases which are stale and hopelessly time barred should be rejected at the very threshold. Further in the case of State of Uttaranchal & Anr. –vs- Shiv Charan Singh Bhandari & ors. [2014 (2) SLR 688] also Hon'ble Apex Court has observed that sleeping over their rights by the appellants for long and belated or repeated representations do not cause fresh cause of action or enliven a dead cause of action for consideration and erase delay and latches. The respondents have also relied on the judgment of Hon'ble Apex Court in State of J&K –vs- R.K.Zalpuri & Ors. {Civil Appeal Nos. 8390-8391 of 2015} and Hon'ble High Court of Orissa in the case of Ajay Kumar Behera –vs- State of Odisha & Ors. [WP(C) No. 15392/2011]. Recently, Hon'ble Supreme Court while dealing with a compassionate appointment case in Government of India and Another vs. P.Venkatesh [(2019) 8 SCALE 544] [Civil Appeal No. 2425 of 2019 [judgment dated 1.3.2019] has held that filing of representation/considering and reconsidering of representations do not obliterate the effect of initial delay. The respondents have therefore prayed for dismissal of both the MA and OA.

6. Heard learned counsel for both the parties and perused the materials available on record.

7. From the pleadings it is clear that the applicant's husband died on 28.9.2014, she applied for compassionate appointment on 21.9.2015 which was rejected vide order dated 29.1.2018 and she approached this Tribunal in the present OA

on 9.3.2022. The applicant should have approached this Tribunal within one year from the date of expiry of the period of six months of preferring application for compassionate appointment. But for the reasons best known to her, she remained silent and approached this Tribunal after such a long delay. Further, the main object of providing compassionate appointment is to relieve the family of sudden financial crisis arising out of the untimely death of the bread earner of the family. If the consideration of the prayer for compassionate appointment is delayed, the purpose of providing compassionate appointment stands defeated. In the present case, it appears that the family could survive for more than eight years after the death of the employee without the compassionate appointment. Moreover, when the prayer for compassionate appointment was rejected vide order dated 29.1.2018, the applicant challenged the said order before this Tribunal in 2022 suddenly awakening from the slumber. Therefore, since the applicant has failed to take action timely and has approached this Tribunal in 2022 challenging the impugned order of rejection dated 29.1.2018, she is not entitled to any relief claimed by her in the present OA.

8. In view of the above, the OA being devoid of merit is dismissed. No order as to costs.