

Court No. - 39

Case :- WRIT - A No. - 19293 of 2023

Petitioner :- Smt. Sudhadra Kumari And Another

Respondent :- Union Of India And 5 Others

Counsel for Petitioner :- Sanjay Vikram Singh, Parth Sharma

Counsel for Respondent :- A.S.G.I., Prashant Singh Som

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Shri Parth Sharma, learned counsel for the petitioners and Shri Arvind Kumar Goswami, Advocate, holding brief of Shri Prashant Singh Som, learned counsel for the Union of India.

2. Present writ petition has been filed against the order dated 15.03.2023 passed by Central Administrative Tribunal, Allahabad Bench, Allahabad in Original Application No. 330/1455/2012 (Smt. Sudhadra Kumari and another Vs. Union of India and 5 others). By that order, the learned Tribunal has dismissed the Original Application and thus confirmed the order passed by the respondent-authorities dated 21.04.2005 rejecting the claim for grant of compassionate appointment made by the petitioners.

3. Undisputedly, the father of petitioner no. 2, Ram Ratan Lal, a regular employee of Postal Department died in harness on 31.12.2001. Within three months from the date of occurrence of death, petitioner no. 1 made an application for grant of compassionate appointment to her son/petitioner no. 2. That application remained pending for the same time. Ultimately, by order dated 21.04.2005 issued on behalf of Circle Relaxation Committee, the same was rejected as unfit for grant of compassionate appointment.

4. Whatever be the merits of that order, it is also a fact, instead of challenging the same at the relevant time, the petitioners continued to file repeated representations before the respondent-authorities. Those may have been rejected by the Circle Relaxation Committee vide various communications dated 15.10.2007, 26.11.2010, 30.08.2011 and 09.03.2012.

5. Arising from the last communication dated 09.03.2012, the petitioners appear to have first approached the Tribunal by means of the above described Original Application.

6. In such facts, the Tribunal has found that the claim made by the petitioners was rejected by the Circle Relaxation Committee vide communications dated 21.04.2005, 15.10.2007, 26.11.2010, 30.08.2011 and 09.03.2012. Considering the lapse of 20 years since the occurrence of death of the husband of petitioner no. 1, Ram Ratan Lal, the Tribunal has found no merits.

7. Having heard learned counsel for the parties and having perused the record, while we may not completely endorse the reasoning given by the Tribunal as the last rejection made by the Circle Relaxation Committee is dated 09.03.2012 which is about 10 years from the occurrence of death and therefore the period of 20 years had not lapsed when the petitioners first approached the Tribunal. At the same time, it remains undisputed between the parties that that claim was first rejected on 21.04.2005. It is further admitted to the petitioners that they never challenged the order dated 21.04.2005 till seven years thereafter.

8. Perusal of the Original Application does not bring out any good ground for condonation of delay committed by the petitioners, in approaching the Tribunal.

9. Once the claim made by the petitioners for grant of compassionate appointment had been rejected on 21.04.2005, the cause of action had arisen to the petitioners to approach the Tribunal. The fact that they did not approach the Tribunal only conferred finality to the order dated 21.04.2005.

10. Neither the petitioners sought condonation of delay nor the delay of 7 years in approaching the Tribunal may have been condoned on the specious plea of the petitioners having made repeated representations to the authorities claiming compassionate appointment. It is settled position in law that filing of repeated representations may never confer limitation as held by seven judges bench of the Supreme Court in **S.S. Rathore Vs. State of Madhya Pradesh (1989) 4 SCC 582**. The Supreme Court observed as under :

"21. It is appropriate to notice the provision regarding limitation under Section 21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub-section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article 58 may not be invocable in view of the special limitation. Yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58.

22. It is proper that the position in such cases should be uniform. Therefore, in every such case only when the appeal or representation provided by law is disposed of, cause of action shall first accrue and where such order is not made, on the expiry of six months from the date when the appeal was filed or representation was made, the right to sue shall first accrue. Submission of just a memorial or representation to the Head of the establishment shall not be taken into consideration in the matter of fixing limitation."

11. In view of the above discussion, we find, the petitioners had approached the Tribunal with a wholly unexplained and inordinate

delay of 7 years from the date of first order rejecting their claim, dated 21.04.2005. That delay was not explained. Therefore, the Tribunal may not have entertained the challenge raised on merits. Repeated representations made and consequent orders passed did not have the effect of giving rise to any fresh cause of action to the petitioners.

12. Then, grant of compassionate appointment is not a fundamental right that may be claimed by any citizen. To the contrary, it is an exception to the rule of equality expressly contained under Article 16 of the Constitution of India. Unless such exception is claimed in deserving facts that too diligently, the Courts may remain disabled from carving out any exception to the rule of equality.

13. Here, for the reasons noted above, we find that the petitioners were responsible for the delay in approaching the Tribunal to claim compassionate appointment. Therefore, no case was made out to create any exception to the rule of equality in their favour.

14. Last, it may be noted, 22 years having passed since the death of the father of petitioner No.2, we do not find any good ground to allow the petitioners any opportunity to seek condonation of delay, at this belated stage.

15. The writ petition lacks merits and is accordingly **dismissed**. No order as to costs.

Order Date :- 22.11.2023
SA

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)