

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.19207 of 2015

Date of Decision: July 31, 2017

Madhu Sudan

...Petitioner

Versus

Union of India & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE**

Present: Mr.Anshul Gupta, Advocate for
Mr.Saurabh Arora, Advocate for the petitioner.

Mr.Namit Kumar, Advocate,
for respondent Nos.1 to 3.

AMIT RAWAL, J.

1. Petitioner before the Central Administrative Tribunal, Chandigarh Bench (for short "CAT") in O.A.No.060/00968/2014 had challenged the minutes of meeting dated 6.1.2010 (Annexure A-8), orders dated 13.1.2010 (Annexure A-6) and 19.9.2014 (Annexure A-10), vide which the application for compassionate employment on account of death of his father on 3.11.2006, while in harness, had been declined. Having remained unsuccessful, he has approached this Court by way of present petition.

2. Mr.Anshul Gupta, Advocate for Mr.Saurabh Arora, learned counsel representing the petitioner submitted that the father of the petitioner initially was appointed as Mail Overseer in the Postal Department. Unfortunately, he died on 3.11.2006 while performing his duties, leaving behind his wife and four children, i.e., two sons and two daughters. On account of his death, the petitioner was eligible for appointment on compassionate ground in pursuance to the policy dated 9.10.1998

(Annexure A-2) and resultantly submitted an application/ declaration dated 20.11.2007 (Annexure A-3). It was also mentioned that the children of the deceased were unemployed and did not own any immovable property.

3. He further submitted that respondent No.3, i.e., Senior Superintendent of Post Offices, Hoshiarpur Division, District Hoshiarpur recommended the case of the petitioner. However, during the interregnum, on 29.6.2007, the petitioner was employed as Postman on temporary basis at Dasuya, District Hoshiarpur and worked upto 2010. Vide order dated 13.1.2010 (Annexure A-6), the claim of the petitioner was rejected. The said order was communicated to the petitioner vide letter dated 15.1.2010 (Annexure A-7). According to the learned counsel, the minutes of the meeting dated 6.1.2010 attached with the Original Application shows that the reasons for rejecting the claim of the petitioner are not only arbitrary but discriminatory. The respondents have adopted pick and choose policy. The claim of the petitioner has been rejected without considering the fact that one daughter of the deceased is of marriageable age, whereas the other two children are still studying. Resultantly, the mother of the petitioner submitted a representation (Annexure A-9) and vide letter dated 19.9.2014 (Annexure A-10), the Circle Relaxation Committee found the case of the petitioner not covered to be of an indigent. The petitioner, while performing the duty on temporary basis, was assured absorption on regular basis. The CAT has rejected the claim in a most erroneous and perverse manner and, therefore, the order is not sustainable. It was urged that the petitioner approached the CAT on 14.10.2014 as his counsel, Shri R.S.Manhas, had informed him that the matter was pending in the Court and, therefore, in such circumstances, the cause of action accrued to the applicant on

19.9.2014 and resultantly filing of the Original Application on 14.10.2014 could not have been said to be barred by law of limitation. The CAT has erroneously relied upon the judgment rendered by the Apex Court while dismissing the Original Application, which is not sustainable in the eyes of law. The minutes of the meeting dated 6.1.2010 do not reflect application of mind. It was contended that the order dated 13.1.2010 could not be challenged earlier as the petitioner, who had engaged the counsel, did not file the case and, thus, petitioner cannot be penalised for the same.

4. Mr.Namit Kumar, learned counsel representing respondent Nos.1 to 3 submitted that the original claim petition was barred by law of limitation as the limitation is one year from the date of accrual of the cause of action as per the provisions of Section 21 of the Administrative Tribunal Act, 1985 (for short “1985 Act”). Since the impugned order is dated 13.1.2010, neither satisfactory explanation nor cogent reasons have been furnished in not availing the remedy in seeking vindication of the grievance within limitation. The alleged placing of the blame on the counsel is not supported by any cogent evidence. It was also claimed that there were about sixteen other applicants besides the petitioner, whose cases had been rejected by the Committee for want of inadequate vacancies, which fact is evident from the minutes of the meeting dated 6.1.2010. The Circle Relaxation Committee found the case of the petitioner not to be of an indigent as compared to the approved candidates on the basis of due and objective assessment of the facts of the case of the petitioner, including net income, status of the family and educational qualification. A prayer was made that the writ petition in such circumstances deserves to be dismissed.

5. We have heard the learned counsel for the parties, appraised the

paper book, impugned order and are of the view that the order is not liable to be set-aside. The petitioner had not furnished any satisfactory explanation for not approaching the CAT within limitation except to shift blame on his counsel which also remained unsubstantiated. The petitioner could assail the order dated 13.1.2010 (Annexure A-6), vide which the case of the petitioner for compassionate appointment was rejected within one year in terms of Section 21 of the 1985 Act which had not been done.

6. The filing of a fresh representation and reiteration of its earlier decision by the impugned order dated 19.9.2014 (Annexure A-10) would not extend the period of limitation to bring the case within the parameters of the provisions of Section 21 of the 1985 Act. In our view, the cause of action had accrued in the year 2010 and lacked any satisfactory explanation for delay in approaching CAT. The Original Application was barred by law of limitation. Even otherwise, the Circle Relaxation Committee in its minutes of meeting dated 6.1.2010 (Annexure A-6) dealt the case of every individual independently and found that the petitioner's case was not covered to be of an indigent as compared to the cases of other persons, which were approved or had been kept in the list of re-consideration.

7. For the reasons aforementioned, we do not find any illegality and perversity in the impugned order of the CAT. Resultantly, the same is upheld. Writ petition stands dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

July 31, 2017

ramesh

**Whether speaking/reasoned
Whether Reportable:**

**Yes/No
Yes/No**