

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-977-2019 (O&M)
Date of decision : 28.3.2019**

Basanti and another

..... Petitioners

Versus

Central Administrative Tribunal and others **..... Respondents**

**CORAM : HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE KULDIP SINGH**

Present:- Mr. Rakesh Sobti, Advocate for petitioners.

Mr. Namit Kumar, Advocate for respondents.

KULDIP SINGH, J.

Petitioners have invoked the writ jurisdiction of this Court under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari for quashing the impugned order dated 15.10.2018 (Annexure P-1), passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal') in OA No. 060/00208/2017, dismissing the claim of the petitioners for compassionate appointment.

The short facts of the case are that the father of petitioner No. 2 namely late Shri Ramswaroop Maurya joined the Department of Posts at Mandi Ateli, SO Gurgaon, Division on 28.7.1973. Unfortunately, he passed away on 19.11.2009 in harness after long illness leaving behind his wife-Basanti petitioner No. 1 and two children. The claim of petitioner No. 2-Dipender Maurya for appointment on compassionate ground was declined

by the Department of Posts vide order dated 16.4.2012 (Annexure A-6).

The claim of the petitioners is that policy of the Government of India in the shape of OM dated 5.5.2003, restricting the claim of the wards of the deceased employees to three years was quashed by the High Court of Allahabad in case of **Union of India and others vs. Smt. Asha Mishra and another** (CWP-13102-2010 decided on 7.5.2010). Therefore, in view of the changed circumstances, respondents should re-consider the case for compassionate appointment. Along with OA No. 060/00208/2017, an application was also moved before the Tribunal for condoning the delay of 1750 days in filing the OA under Section 5 of the Limitation Act. By the order impugned dated 15.10.2018, (Annexure P-1), the Tribunal declined the condonation of delay.

We have heard learned counsel for the parties and have also carefully gone through the case file.

Admittedly, father of petitioner No. 2 namely late Shri Ram Swaroop Maurya died in the year 2009. His claim for compassionate appointment was declined on 16.4.2012 (Annexure A-6). The present petition was filed in the year 2017 with delay of 1750 days. There is a delay of about more than five years in filing the OA No. 060/00208/2017 before the Tribunal. The only ground on which the delay is sought to be condoned is that the policy of the Government of India in the shape of O.M. No. 5.5.2003 was quashed by the High Court of Allahabad in '**Smt. Asha Mishra's case (supra)**' decided on 7.5.2010. In view of changed circumstances, respondents should reconsider the case for compassionate

appointment.

We are of the view that the said judgment was passed before the impugned order dated 16.4.2012 was passed. Even then the petition was filed after more than 04 years. Once, the claim of the petitioner was declined in the year 2012, he should have approached the Tribunal within limitation. The huge delay of about 1750 days cannot be condoned only on account of the subsequent policy.

Admittedly, after the death of father of petitioner No. 2 in the year 2009 till 2017 the petitioners have been maintaining themselves. The purpose of compassionate appointment is to grant financial assistance to the family who lost its bread winner. We find that the Tribunal has rightly observed that it cannot be allowed to be used as a tool to obtain employment.

In view of above, we do not find any illegality or infirmity in the impugned order dated 15.10.2018 (Annexure P-1), passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh.

Writ petition stands dismissed accordingly.

(RAJIV SHARMA)
JUDGE

(KULDIP SINGH)
JUDGE

28.3.2019
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
Yes