

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5532 OF 2021

Mr. Ramesh Namdev Gaikwad	}	Petitioner
Versus		
Union of India and Anr.	}	Respondents

Mr. Rajshekhar S. Alange for the petitioner.

Mr. Chetan Agrawal with Ms. Nikita Banatwala
for the respondents.

**CORAM :- DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE :- OCTOBER 6, 2021

PC :-

1. The Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter "the Tribunal", for short), by its order dated 6th October 2017 refused to grant the prayer for condonation of delay in presentation of Original Application No. 56 of 2015. The original application, accordingly, was dismissed as time barred.
2. Aggrieved by the said order, the original applicant as petitioner has invoked the writ jurisdiction of this Court.
3. It is not in dispute that the petitioner applied for voluntary retirement upon being found to be medically unfit. He, accordingly, stood retired on 14th June 2010. At the same time, the petitioner applied for compassionate appointment of

his son, who was 38 years' old at that point of time. The ground for seeking compassionate appointment was that the son is unemployed and dependent on the petitioner. Also, the petitioner's married daughter was residing with him upon being deserted by her husband. The prayer of the petitioner for compassionate appointment was rejected on 18th March 2011 on the ground that he had only 1 (one) year and 4 (four) months' service left on the date of his retirement on 14th June 2010 whereas the relevant policy requires that an employee, who retires on medical ground, in order to have a consideration of his application for compassionate appointment, must have retired with 3 (three) years' service yet to be completed. The Tribunal was of the view that the petitioner had not advanced sufficient cause for condonation of delay and, thus rejected the application.

4. While we agree with the Tribunal on the point that the petitioner had grossly delayed his approach and is not entitled to condonation of delay, as prayed, we have proceeded to examine the claim of the petitioner on merits. The claim for compassionate appointment was required to be considered in accordance with the extant scheme/policy for such appointment. The petitioner did not qualify in terms thereof since he was not retired prior to 3 years of his date of retirement on superannuation. Law is well settled that compassionate appointment can only be offered if all the terms and conditions of the policy/scheme are satisfied and any deficiency may prove to be fatal for the applicant. This is not a fit and proper case where, even if the petitioner had

approached the Tribunal within the period of limitation, any relief could have been granted to him.

5. For the reasons aforesaid, we find no merit in the writ petition. The same stands dismissed. There shall be no order as to costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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