

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Administrative Member.

Case No. –MA 204 of 2018 (OA 848 of 2018)

Miss Binita Chettri. - Versus - The State of West Bengal & Others.

Serial No. and Date of order	For the Applicant	: Mr. D. K. Mukherjee, Advocate.
<u>10</u> 17.05.2022.	For the State Respondents	: Mr. A. Mitra, Advocate.

In the present Miscellaneous Application, the applicant has prayed for condonation of delay in filing the Original Application, being OA-848 of 2018. The same has been filed on 14.12.2018.

In the present application for condonation of delay, the applicant has stated, *inter alia*, that the mother of the applicant, Durgamaya Gajmer was a “Resham Karmee” attached to the Assistant Director of Textiles (Sericulture), Kalimpong who died-in-harness on 14.12.2012 leaving behind two daughters.

By memo. no. 2008-Cot (II) / 2S – 75/99 dated 06.07.2000, C&SSI Department intimated the Director, Sericulture, West Bengal that the post of “Resham Karmee” was supernumerary and the said post would cease to exist after the death of an employee. The applicant made a fresh prayer for compassionate appointment on 03.02.2018 on account of death of her mother while in service.

The State respondents do not file any reply against the application for condonation of delay for filing OA-848 of 2018.

Having heard the counsel for the parties and having gone through the materials on record, it appears that the mother of the applicant died-in-harness on 14.12.2012 as “Resham Karmee”, the applicant did not disclose when she made the application for compassionate appointment at the first occasion and no receipted copy of such application is enclosed herein. This particular fact indicates lack of *bonafide* of the applicant.

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The applicant made a representation on 03.02.2018 after the death of her mother on 14.12.2012. The applicant waited for a long time of 16 years for filing the representation as indicated above. However, no reason has been assigned as to why she was sufficiently prevented to make such application.

Section 5 of the Limitation Act, 1963 as well as Section 21 (3) of the Administrative Tribunals Act, 1988 permits the applicant to file an application after the statutory period of limitation subject to assigning sufficient cause.

The word 'cause' has been categorised as 'sufficient' not good or otherwise, therefore, the parameter to judge the case as to whether the applicant has made out a sufficient cause or not is a primary condition to condone the same.

"Sufficient cause" must be a cause which is beyond the control of the party invoking the aid of the section. A cause for delay which a party, could have avoided by the exercise of due care and attention cannot be a sufficient cause. The test whether or not a cause is sufficient is to see whether it is a bona fide cause, inasmuch as nothing can be considered to be bona fide which is not done with due care and attention.

In the present case, I do not find any cause which prevented the applicant to file the application before authority concerned in time and approach this Tribunal within the period of limitation as envisaged under Section 21 (1) and (2) of the Administrative Tribunals Act, 1988, even if, day to day delay is not necessary to be explained. So, in absence of any denial by the State, the situation cannot be altered. Overall consideration of the pleading, no cause has been assigned which affected

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the applicant personally in committing inordinate delay to ventilate her grievance which was beyond her control.

Considering the aforesaid principle of law, the applicant has failed to make out a sufficient cause in filing the Original Application (OA-848 of 2018).

Accordingly, the Miscellaneous Application (MA-204 of 2018) is liable to be dismissed and the same is dismissed accordingly. However, there is no order as to cost.

In view of dismissal of MA-204 of 2018, the Original Application (OA-848 of 2018) is also dismissed.

(SAYEED AHMED BABA)
MEMBER(A)

S.M.