

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

OA No. 169of 2019

Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)

1. Shri Satya Ranjan Mohanta, aged about 34 years, S/o Late Debendra Nath Mohanta, vill: Kucheigudi, Po/Ps: Rairangpur, Dist: Mayrubhanj - 757001

.....Applicant.

VERSUS

1. Union of India, represented through its Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110116.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist – Khurda - 751001.
3. Superintendent of Post Offices, Mayurbhanj Division, Baripada, Mayurbhanj - 757001

.....Respondents.

For the applicant : Mr. D. K. Mohanty, Advocate

For the respondents: Mr. A. K. Mohapatra, Advocate

Heard & reserved on : 28.02.2020

Order on : 18.05.2020

O R D E R

Per Mr. Swarup Kumar Mishra, Member (J)

The applicant has prayed for the following reliefs under section 19 of the Administrative Tribunals Act, 1985:-

- (i) *To quash the order dt. 20.03.2008, order dt. 30.06.2014 & order dt. 11.01.2019 under Annexure-A/4, A/6 & A/10;*
- (ii) *To direct the Respondents to consider the Applicants case taking into account letter dt. 05.09.2016 under Annexure-A/8 & provide an employment to the Applicant retrospectively for the ends of justice;*
- (iii) *To pass any other order/order's as deem fit and proper in this case.*

(iv) *And any other order (s) as the Hon'ble Tribunal deems just and proper in the interest of justice.*

2. The case of the applicants as averred in brief is to the effect that the applicant's father while working as GDSMC in Rairangpur H. O. died prematurely on 14.09.2005 leaving behind his widow, four sons (one is minor at that point of time), one daughter (not married at that point of time) and have meagre landed property. The applicant has passed the Matriculation Examination and the mother of the applicant made a representation in time for consideration of employment for the applicant under compassionate quota. But the respondents vide letter dated 20.03.2008 (Annexure A/4) rejected the representation on the ground that no liability, family resides in his own house and income of landed property per annum is Rs. 24,000/- . The applicant made representation dt. 27.06.2008 for reconsideration of providing employment under compassionate quota but no answer was given despite of several reminders. The applicant again made a reminder on 12.06.2014 (Annexure A/5) to the Respondent No. 2 for reconsideration of his case. The respondents vide order dated 30.06.2014 (Annexure A/6) rejected his representation without explaining the points raise in the representation i.e. a married son is not treated as dependent of the deceased and thereby not eligible for compassionate appointment. In the meantime DoPT issued OM dated 05.09.2016 (Annexure A/8) reviewing earlier stand that married son is not eligible for compassionate appointment and categorically stated that "the case of compassionate appointment rejected solely on the ground of marital status in terms of FAQ no. 13 during the intervening period i.e. w.e.f. 30.05.2013 to 25.03.2015 in respect of married son may be reopened/reconsidered against

the vacancies occurring after this OM.” Subsequently after the aforesaid OM of DoPT the applicant made another representation on 02.03.2018 (Annexure A/7) for consideration of employment under compassionate quota but the respondents did not respond to the said representation. Thereafter the applicant filed OA No. 510/2018 before this Tribunal which disposed of the OA on 04.12.2018 (Annexure A/9) directing the competent authority to pass a speaking and reasoned order. The respondent No. 2 rejected the prayer of the applicant vide rejection letter dated 11.01.2019 (Annexure A/10) in cryptic manner and again adding the point that the deceased is verge of retirement at the age of 65 years and consider all the aspects without disclosing the same and without fact finding enquiry/behind the back of the applicant. Hence this OA.

3. The respondents in counter inter alia averred that the deceased employee, father of the applicant, had rendered 38 years of service and had less than one year of service (Annexure – R/2) and cited Hon’ble High Court order in OJC No. 4837 of 2002 Annexure R/3 regarding rejection of the case of compassionate appointment since applicant’s father had completed 36 years of service before dying in harness. It was averred that rejection of compassionate appointment of the applicant vide letter dated 20.03.2008 was decided by the Competent Circle Relaxation Committee since they did not fulfil the criteria for selection of compassionate appointment and the reply of representation dated 12.06.2014 was just and appropriate. It was further averred that the representation dated 02.03.2018 of the applicant was considered by the competent authority in the light of Govt. of India, Department of Post letter dated

30.05.2017 Annexure R/5 as per the guidelines contained therein “the cases which have already been settled will not be reopened” and the applicants case for compassionate appointment was rejected not only for the reason of his marital status but also for not fulfilling other criteria such as the official died at the age of 65 years leaving behind only 3 months 20 days of service, all the four sons are major and got married, no liability i.e. marriage of daughter or education of children, the family resides in his own house, income Rs. 24000/- per annum from landed property and no indigence.

Learned counsel for the Respondents relied on following decision:

1. Judgment of Odisha High Court in O. J. C. No. 4837 of 2002, Amulyadhan Biswal Vrs. Union of India & others

4. The respondents have rejected the application for compassionate appointment inter alia on the ground that there is no indigency. They have also mentioned in their counter that there is no liability in the family of the deceased. It has further specifically mentioned by them that the deceased had already completed more than 38 years of service and died when he had about three month and 20 days of service left. In this regard the principle to be followed for compassionate appointment, Hon’ble Apex Court in the case of MGB Gramin Bank vs. Chakravarti Singh [(2015) 1 SCC (L&S) 442] has held as under:-

“6. Every appointment to public office must be made by strictly adhering to the mandatory requirements of

Articles 14 and 16 of the Constitution. An exception by providing employment on compassionate grounds has been carved out in order to remove the financial constraints on the bereaved family, which has lost its bread-earner. Mere death of a Government employee in harness does not entitle the family to claim compassionate employment. The Competent Authority has to examine the financial condition of the family of the deceased employee and it is only if it is satisfied that without providing employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family.....

7. In Umesh Kumar Nagpal v State of Haryana &Ors., (1994) 4 SCC 138, this Court has considered the nature of the right which a dependant can claim while seeking employment on compassionate ground. The Court observed as under:–

‘2. The whole object of granting compassionate employment is, thus, to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased..... The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs of the family engendered by the erstwhile employment which are suddenly upturned.

Xxx xxxxxxxxxx

4. The only ground which can justify compassionate employment is the penurious condition of the deceased’s family.

Xxx xxxxxxxxxx

6. *The consideration for such employment is not a vested right. The object being to enable the family to get over the financial crisis.’ (Emphasis added)*
.....”

- 5. This Tribunal has gone through pleadings of the parties, documents relied by them and the citations relied by parties. This tribunal had also heard Learned counsels for parties.
- 6. In the circumstances the respondents have committed no irregularity or illegality in rejecting the application for grant of compassionate employment, (since the very purpose of giving said appointment is to enable the family to tide over the sudden crisis as there was no penurious condition in the family of the deceased, therefore the respondents have rightly rejected the application in question, after considering the relevant aspect in accordance with the rules. Thus this Tribunal finds that the OA is devoid of merit.
- 7. Accordingly the OA is dismissed but in the circumstances without any order as to cost.

(SWARUP KUMAR MISHRA)
MEMBER (J)