

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 326 of 1988.

Date of decision : July 13, 1990.

Arun Kumar Panda Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. Devanand Misra,
Deepak Misra,
R.N. Naik, A. Deo,
Advocates.

For the respondents ... Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

N. SENGUPTA, MEMBER (J) In this application the reliefs sought for are for a direction to the respondents to appoint the applicant in relaxation of the normal rules for appointment and for such other reliefs as he may in the circumstances be found entitled to.

*N. Sengupta
13/7*

2. The case of the applicant is that he is the son of Hadibandhu Panda who was a Group 'D' official under the Posts & Telegraphs Department. The said Hadibandhu

Panda while working at Jobra under Cuttack City Division died. He (the applicant) preferred original application No.122 of 1988 for considering his case to get a job under the Posts and Telegraphs Department. That case was disposed of by this Tribunal by directing the Respondent No.2 i.e. Postmaster General, Orissa Circle, to consider the case sympathetically. After the disposal of O.A.122 of 1988 some more facts were placed by him before the Respondent who rejected his (applicant's) prayer as one of the members is working in the Department and this order of rejection is made Annexure-2. His case further is that as he is the person with whom his mother and unmarried sister and his brother said to have been in employment under the Posts & Telegraphs is living separate, ~~and~~ that could not have entailed the rejection of his prayer for appointment on compassionate ground. The applicant has also averred that some others have been given compassionate appointments in relaxation of normal rules of recruitment even though one member of each of those families was having employment.

3. The respondents in their reply in counter have reiterated that as the brother of the applicant was in service under the Posts & Telegraphs and as the family is not in indigent circumstances, the applicant is not entitled to appointment on compassionate grounds.

4. We have heard learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents and perused the papers. Learned

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counsel for the applicant has very vehemently urged that this is a fit case where a compassionate approach is warranted and he has further contended that the elder brother of the applicant has been appointed under the State Government and before the death of the applicant's father. Therefore, no question of any compassionate appointment would arise. Learned counsel for the applicant has drawn our attention to Annexure-C to the counter which is a copy of a letter written by the Office of the Postmaster General, Orissa Circle, to Shri Arun Kumar Panda, the present applicant. On a perusal of this letter it would be apparent that the case of the applicant was really considered by the Circle Relaxation Committee headed by the Postmaster General, Orissa Circle on 16.6.1988 and that was in accordance with the direction issued by this Tribunal. The committee could not recommend the case of the applicant for the following reasons i.e. there was already an earning member in the family getting adequate income and the widow of the deceased official was having substantial means of livelihood and there was no indigent circumstance warranting reconsideration. Learned counsel for the applicant has argued that there are some exceptions to normal rules of compassionate appointment. We have already stated above that it is not a case where the applicant's case for compassionate appointment was not considered by the Department but the Department while trying to comply with the order passed by this Tribunal found it difficult to provide employment to the applicant on compassionate ground. Learned counsel for the respondents urged that the applicant has not been able to bring out

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any circumstances suggesting indigence in the family of the applicant. Therefore, one of the main contentions for getting appointment on compassionate ground was absent. On the other hand, learned counsel for the applicant has very vehemently urged that the family is indigent. It is neither desirable nor is it required in the facts and circumstances of the case to embark on an enquiry about the financial condition of the family of the applicant. Suffice it to say that from the impugned order we find that the committee had applied its mind and reached its conscious conclusion about the financial conditions of the applicant's family. This Tribunal is not an appellate authority with regard to such a finding of the departmental authorities. It is undisputed that one of the brothers of the applicant is in employment. Therefore, the applicant has no basis to say that the family is indigent.

5. In view of the above circumstances, we are not inclined to issue any direction as prayed for. Accordingly the application fails but without costs.

Banerjee 13.7.90
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Vice-Chairman

Meenakshi 13.7.90
.....
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
July 13, 1990/Sarangi.

