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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.227 of 1989.

Decided on 19th June, 1989.

Pradeep Kumar Nayak,
S/o Sri Krushna Chandra Nayak,
resident of Kapila, P.S.Binjharpur,
District- Cuttack.

... Applicant

Versus.

1. Union of India, represented by
Secretary, Ministry of Communication,
Government of India, New Delhi-110001.
2. Director General, Department of Posts,
India, New Delhi- 110 001.
3. Postmaster General,
Orissa Circle, Bhubaneswar,
District-Puri.
4. Director of Postal Services,
Bhubaneswar, District-Puri.
5. Senior North Superintendent of
Post Offices, Cuttack Postal Division,
Cuttack.
6. Assistant Superintendent of Post offices,
In-Charge, Jajpur Sub-Division,
Jajpur, District-Cuttack.

... Respondents

For Applicant - M/s. G.K.Mohanty,
G.P.Samal and S.K.Ghose.

For Respondents- Mr. T. Dalai, Addl.
Standing Counsel (Central).

CORAM :

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

A N D

THE HONOURABLE MR. K.P.ACHARYA, 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.
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J U D G M E N T.

K.P.ACHARYA, MEMBER (JUDICIAL).

In this application under section

19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to be issued to the respondents to allow the applicant to continue in the post of Extra Departmental Delivery Agent of Kapila Branch Post Office, under Jajpur Postal Division and furthermore, it is prayed that the respondents be commanded to appoint the applicant on regular basis, on a compassionate ground as Extra Departmental Delivery Agent of the same Post office.

2. Shortly stated, the case of the applicant is that the applicant's father Krushna Chandra Nayak was serving as an Extra- Departmental Delivery Agent in Kapila Post office under Jajpur Postal Division within the district of Cuttack. While the applicant's father Krushna Chandra Nayak was in active service, he was attacked by Paralysis during April, 1988. Due to sickness which incapacitated the applicant's father, the authorities concerned took a compassionate view over the applicant and in the vacancy caused due to the illness of Krushna Chandra Nayak, the applicant was appointed temporarily in such leave vacancy with effect from 1.2.1988 and

the applicant continued to work as such. Ultimately the applicant's father Krushna Chandra Nayak could not recover from such illness and he was compelled to opt for voluntary retirement on the ground of illness which has been allowed. In spite of the prayer of the applicant's father for voluntary retirement having been allowed, the departmental authorities were very kind and good enough to allow the applicant to continue as an Extra Departmental Delivery Agent in the place of his father. While in service, steps were taken by the departmental authorities to fill up the post in question on regular basis and names were called for from the Employment Exchange and the applicant was one of those candidates. Without any written notice^{being} served on the applicant, unfortunately on 29.12.1988 the applicant was prevented from discharging his duties in respect of the said post. Hence this application with the aforesaid prayer.

3. We have heard Mr. G.K.Mohanty, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central). From the relevant documents filed in this case, we are convinced that the applicant had been temporarily appointed to act as Extra Departmental Delivery Agent of Kapila Post office. The only limited question which remains to be determined is as to whether similar compassionate view should be taken by the departmental authorities in regard to the case of the applicant. Mr. G.K.Mohanty, learned counsel for the applicant, invited our attention

to paragraph-5 of section 6 (page 96) of Swamy's compilation of Service Rules for Extra-Departmental Staff in Postal Department, 1987 (Third Edition) which runs thus :

" (5) Compassionate appointment to dependants in case of death, etc.-

The question of providing some ED posts to dependants of ED Agents in case of death/infirmity of an Extra-Departmental Agent has been under consideration of the Government for quite some time past. It has now been decided that a suitable job in ED cadre may be offered to one dependant of an ED official who dies while in service leaving the family in indigent circumstances subject to the conditions applicable to regular employees who die while in service or retire on invalid pension. ... "

(Emphasis ^{is} ~~added~~ ^{to} the underlined portion).

Sri P. Muthuswamy has ^{ne} produced the directions of the Director General of Posts and Telegraphs contained in letter No. 43-212/79-Pen. dated 4th August, 1980.

4. We have, no doubt, in our mind that the applicant's father has obtained voluntary retirement because of his physical ailment and this amounts to invalid pension. In case the applicant's father has retired on the above-mentioned circumstances, we think the departmental authorities should take a compassionate view over the applicant because of the indigent circumstances in which the father of the applicant and his family members would now be living. We do appreciate the kindness of the department while appointing the applicant temporarily giving some amount of aid to the ailing father and we hope that the same attitude would be shown to the

applicant provided that there is no adverse report against him in regard to the official discharge of duties. We further direct that till final orders are passed in regard to the appointment of the applicant, he should be allowed to continue in the same post and we hope the matter will be finalised within two months from the date of receipt of a copy of this judgment. In case, in the meanwhile regular appointment has been issued in favour of some other person, we would further direct that the concerned authorities may consider the case of the applicant for appointment in the ~~same~~ ^{some other} post provided that there is no adverse report against the applicant.

5. Thus the application is disposed of accordingly, leaving the parties to bear their own costs.

[Signature]
19.6.89.
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MEMBER (JUDICIAL)

B.R. PATEL, VICE-CHAIRMAN.

I agree.

[Signature]
19.6.89
.....
VICE-CHAIRMAN.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.

The 19th June, 1989/ Jena/SPA.

