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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 348 of 1990

Date of disposal: February 4, 1993.

Amulya Kumar Rout ... Applicant

Versus

Union of India and Ors. ... Respondents.

For the Applicant ... Mr. Antaryami Rath,
Advocate.

For the Respondents ... Mr. Aswini K. Misra,
Sr. St. Counsel (Central)

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C O R A M :

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN.

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1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not?
3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

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(10)

JUDGMENT

K.P.ACHARYA, V.C.

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the petitioner Shri Amulya Kumar Rout prays to give him an appointment to the Petitioner on compassionate ground and to direct the Opposite Parties to pay the T.A.Bills and the Medical re-imbursement Bills submitted by his father. Due to plurality of relief claimed Mr. Rath learned Counsel appearing for the Petitioner very fairly submitted that he does not press the prayer against Sl.Nos. 2 and 3 namely clearance of T.A.Bills and Medical Re-imbursement Bills of the father of the Petitioner Shri Amulya Kumar Rayt. Therefore, the Court has confined itself only to prayer No.1 i.e. question of compassionate appointment. Prayer Nos.2 and 3 stands deleted.

2. Shortly stated the case of the petitioner is that his father Shri Golak Chandra Rout, joined the Postal Department in 1960 and retired from the post of Postal Assistant working at Bhadrak. It is submitted by the Petitioner that his father developed mental disorderliness and was mentally incapacitated to discharge his official work. Therefore, he remained absent from duty for which a proceeding under Rule 14 of the C.C.S (C.C.A.) Rules was initiated against the father of the petitioner, Shri Golak Chandra Rout. The disciplinary authority ordered removal of the Petitioner from service which was ultimately confirmed by the Director, Postal Services and which was set aside by the Member, P & T Board. The Member further

directed that in case the petitioner is really found to be mentally incapacitated, he should be given invalid pension. The authority opined that there was mental inequilibrium on the part of the petitioner's father and therefore, the petitioner's father was given invalid pension. In these state of affairs, the present petitioner applied for compassionate appointment which has been rejected and therefore, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the petition is liable to be dismissed, because representation for compassionate appointment has been made by the petitioner five years after the retirement of the father of the petitioner on invalid grounds. Since the Petitioner's father is now getting invalid Pension, It cannot be said that the petitioner is now under indigent circumstances and therefore, the case being devoid of merit is liable to be dismissed.

4. I have heard Mr. Antaryami Rath learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (Central) for the Opposite Parties.

5. The fact that the Petitioner's father has retired on invalid grounds was not disputed before me. The only contention of Mr. Aswini Kumar Misra learned Sr. Standing Counsel was that the application, having been made as late as five years after the retirement of the Petitioner's father, the prayer of the petitioner should stand rejected. In the cause title the petitioner has

stated that he is aged about 21 years on the date of filing of application i.e. 20th December, 1990. Petitioner attained majority in the year 1987. If he would have filed an application prior to 1987, the application would have been straight way rejected because he was not within the age competency for being considered. It is not proper to hit the man from both sides. Therefore, I do not find any merit in this contention of Mr. Aswini Kumar Misra.

6. As regards the contention that the petitioner's father is getting invalid pension also does not weigh with me because in several cases in past this Bench has held that if drawing of pension would have been one of the critaria to reject the application for compassionate appointment, then the Government would have made a specific rule to that effect but compassionate appointment scheme has been promulgated with the sole intention that those ex-Government employees who have taken premature retirement or who have died and their family is under indigent circumstances, compassionate appointment could be given to help the family for its sustinance. Therefore, grant of invalid pension does not ipsofacto become a legitimate ground to reject the prayer for giving a compassionate appointment. Such contention is rejected.

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7. Mr. Antaryami Rath learned counsel for the Petitioner invited my attention to the averments finding place in paragraph 'M' of the petition contains letter bearing No. B/G- 108 dated 12th January, 1990. It runs thus:

"Your case was considered by the circle relaxation committee on 8.1.1990. It was found that the daughter of the deceased official is already in employment and hence the case has been rejected by the Committee".

Mr. Rath learned counsel appearing for the petitioner strenuously contended that this order has resulted from nonapplication of mind because the petitioner's father is very much alive till today whereas it has been stated in the order that the Petitioner's father has since died and daughter of the deceased was in service. I feel that there is substantial force in the contention of Mr. Rath. As prevalent in Hindu Custom, a daughter is bound to get married and therefore her service if any, in any other Department should not have weighed with the relaxation Committee. I am fully convinced that here is a case where the petitioner needs utmost sympathy. As a model employer, the authorities should take a very compassionate view over the petitioner's father who is suffering from mental derangement and living on a paltry amount of invalid pension which can never be sufficient to sustain his family. Therefore, it is directed that the petitioner Shri Amulya

be given a compassionate appointment commensurate with his educational qualification preferably within 120 days from the date of receipt of a copy of this judgment. Though I ~~feel~~ that it is needless to mention to the decision of the Hon'ble Supreme Court having been quoted in several other cases in the past, yet in view of the peculiar facts and circumstances of the case I feel persuaded to quote the observations of Their Lordships in the case of Sushma Gosain v. Union of India reported in AIR 1989 SC 1976 which was quoted with approval by Their Lordships in the case of Smt. Phoolwati Vs. Union of India reported in AIR 1991 SC 469. The observations made in Sushama Gosain's case runs thus:

"It can be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should therefore be provided immediately to redeem the family indistress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant".

8. I hope and trust, the concerned authority would seriously bear in mind ~~with~~ the observations of the Hon'ble Supreme Court and without any delay give a compassionate appointment to the petitioner even by creating supernumerary post.

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

Leg. 4-2-93

