

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 66 of 1991

Date of Decision: 4.2.1993

Smt. Keluni Dei Applicant

Versus

Union of India & Others Respondents

For the applicant

M/s. Pradip Kumar Mohapatra,
L. Mohapatra,
M.R. Mohanty
S.C. Mohanty,
Advocates

For the respondents

Mr. Aswini Kumar Mishra
Standing Counsel
(Central Government)

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C O R A M:

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

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? [^]
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the opposite parties to give a compassionate appointment to her daughter Smt.Minakumari Nayak.

2. Shortly stated the case of the petitioner is that her husband Shri Bhikari Nayak had joined the postal department and after serving as a Mailman in R.M.S., North Division, Cuttack for about 9 years, died in harness on 15.1.1989 leaving behind his widow and a daughter who is named as Minakumari Nayak. On the death of Bhikari, the family was going with begging bowls and therefore the petitioner who is the mother of Minakumari applied to the competent authority for giving a compassionate appointment to Smt.Minakumari. This prayer of the petitioner having been rejected, she has come up with the aforesaid prayer.

3. In their counter the opposite parties maintain that a huge amount has been given to the widow of Bhikari towards the D.C.R.G., G.P.F., Welfare Fund, C.G.I.E.S. and leave encashment; and a sum of Rs.710.00 per month^{is} being paid to the petitioner towards pensionary benefits, and the family has a source of income from agricultural land to the extent of Rs.3500.00 per annum.

4. I have heard Mr.L.Mohapatra, learned counsel for the petitioner and Mr.Aswini Kumar Mishra, learned Standing Counsel.

5. Mr.L.Mohapatra, learned counsel for the petitioner strenuously urged that Minakumari is a matriculate and she belongs to the reserved category of Scheduled Caste. According to the directives given by the D.G.P.T., Scheduled Caste

candidates have to be given ~~the~~ due weightage and the present trend of attitude of the Government of India is to ~~raise~~ the downtrodden people as far as possible - of course within the four corners of the rules in force. On a perusal of the pleadings of the parties and after hearing counsel for both sides I am convinced that Minakumari is one of those down trodden members of the society and both mother and the daughter have to sustain themselves with the paltry amount, the widow has received ^{is} or/receiving towards pension. The total amount mentioned against Sl.No. 1 to 5 in paragraph-4 comes to Rs.29,637.00. It is not known howmuch money was spent for the obsequies of Bhikari. Whatever it may be, if a sum of Rs.30,000 is deposited in a Bank, then the petitioner would get barely Rs.3,000.00 per year which worksout to be less than Rs.200.00 per month. Family pension of Rs.710.00 and Rs.200.00 ^{towards interest} /from the bank is nothing to maintain two members of the family, i.e. the widow and her daughter, in these hard days.

6. Apart from the above, this Bench has already taken a view that ~~retairal~~ benefits including family pension shall not ~~be~~ taken into consideration while judging the case of a particular person for compassionate appointment. There is no rule promulgated by the Government that those who are drawing family pension or have been given some retairal benefits are drprived of being considered for compassionate appointment. As a matter of fact, there have been many cases in which persons who have received ret-iral benefits and have received family pension have been given compassionate appointment. Therefore I find no justifiable reason to make ^{the} departure from the view ^{of} the bench.

a departure from the view already taken in such type of cases, viz. keeping all these financial benefits out of consideration while judging the cases for compassionate appointment.

7. Keeping in view the intention of the Government in helping the down trodden people and keeping in view the very paltry amount which the widow is now drawing and which would be most insufficient to sustain the family, I would direct the case of the petitioner should be considered sympathetically and a compassionate appointment should be given to her preferably within 120 days from the date of receipt of a copy of the judgment; even by creating supernumerary post. I particularly say that by creation of supernumerary post, because I am following the observations of Their Lordships of the Supreme Court in the case of Smt. Phoolwati vs. Union of India reported in AIR 1991 SC 469 quoting with the approval ^{the} observations made by Their Lordships in the Case of Susama Go-sain vs. Union of India reported in AIR 1989 SC 1976 which 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 hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. 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."

Therefore I would direct that this judgment be implemented within the stipulated period. Thus the application stands allowed leaving the parties to bear their own cost.



[Signature]
4/2/93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 4th Feb/1993/ BK Sahoo