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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 99 of 1992

Date of Decision: 17.11.1993

N.K. Dhal

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *NO*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *NO*

*[Signature]*  
MEMBER (ADMINISTRATIVE)

17 NOV 93

*[Signature]* 17/XI/92  
VICE-CHAIRMAN

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Union of India & Others Respondents

For the applicant

M/s.J.Das  
B.S.Tripathy  
K.P.Mishra  
S.Mallik  
Alok Das  
Advocates

For the respondents

Mr.A.K.Misra,  
Standing Counsel  
(Central)

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C O R A M:

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

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR.K.P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the impugned orders contained in Annexures-2 and 3 rejecting the prayer of the petitioner for a compassionate appointment.

2. Shorn of unnecessary details, it would suffice to say that the petitioner's father was working as Extra Departmental Mail Carrier in Krishnapur Branch Post Office. Since the father of the applicant fell ill, he availed leave putting the present petitioner Shri N.K.Dhal as a substitute. Unfortunately, the

petitioner's father Shri Narayan Chandra Dhal died on 16.2.1990. After the death of the petitioner's father, he was temporarily appointed to the same post with a clear stipulation that he is to vacate the post in question when a regular employee comes in. The case of the petitioner for compassionate appointment was considered by the Circle Relaxation Committee, and it was ultimately rejected on merit. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the Circle Relaxation Committee considered the case of the petitioner from all aspects and since it was devoid of merit, rightly his prayer for compassionate appointment was rejected which should not be unsettled - rather it should be sustained.

4. We have heard Mr.K.P.Mishra, learned counsel for the petitioner and Mr.Aswini Kumar Mishra, learned Standing Counsel.

5. Vide Annexure-1 the petitioner was appointed provisionally as E.D.M.C. in the place of his deceased father. Vide Annexure-3 dated 3.3.1992, services of the petitioner was terminated and an interim arrangement was made keeping Shri Niranjana Sethi, EDMC, Khadiang B.O. in charge of the same post. Vide Order dated 24.3.1992, this Bench stayed operation of the termination order passed against the petitioner. Therefore, it is presumed that the petitioner is continuing in the post in question.

In the counter there is no mention at all that the fresh

selection has been finalised.

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6. In the circumstances stated above, we would direct that in case there has been no order of regular appointment passed in favour of anybody and in case <sup>nobody</sup> anybody has not taken charge of the post in question, then the selection process be taken up without any further delay and case of all the candidates including that of the petitioner (who would make an application within 15 days from to-day) be considered to adjudicate the suitability of different incumbents and he/she, whosoever is found to be suitable, appointment order be issued in his/her favour. Before we part with this case, we must say that the case of the petitioner must be sympathetically considered keeping in view that he has lost his father and he has gained a good bit of experience in the post in question. The fact that an order of termination was passed against the petitioner should not weigh with the selecting authority. Till the regular appointment is made the petitioner should continue. Thus the application is accordingly disposed of. No costs.

*[Signature]*  
MEMBER (ADMINISTRATIVE)  
17 NOV 93

*[Signature]*  
17.XI.93  
VICE-CHAIRMAN

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 17.11.1993/B.K.Sahoo