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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 224 OF 1993

DATE OF DECISION: 8TH SEPTEMBER, 93

C.V. Ramana and another ... Applicants
Versus
Union of India and others ... Respondents

(For Instructions)

1. Whether it be referred to the reporters or not? NY
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? M


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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(K. P. ACHARYA)
VICE-CHAIRMAN

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3. Late C.S.Rao during his life time while working as Accounts Officer, in the Office of the Deputy Director, Postal Department obtained retirement on invalidation grounds and his prayer was accepted and C.S.Rao was allowed to retire with effect from 2nd April, 1991 though he had ^{to} retired on superannuation with effect from 31st May, 1994. Very unfortunately, within two months from the date of retirement i.e. 21st June, 1991, said Rao breath^{ed} his last. An application was filed by the Petitioner No.1 (Smt. C.V.Ramana) for an appointment on compassionate grounds. Her application was rejected. Now both the petitioners namely Smt. C.V.Ramana and her daughter Kumari C.Bhanu had ^{ve} filed this application with a prayer for appointing either of them on compassionate grounds.

4. In their counter, the Opposite Parties maintained that the application of the Petitioner No.1 i.e. Smt.C.V. Ramana was considered by the Circle Relaxation Committee and her application stood rejected because of the following grounds; (1) She was over aged namely she was aged 45 years at the time of her case was considered; (2) she has been given gratuity of very heavy amount and also she had ^{been} made entitled to Rs.1200/- per month upto 1.4.1993 and thereafter Rs.600/- per month as pension; (3) Son of Smt. Ramana is now reading in the I.I.T. Kharagpur and so far as Petitioner No.2 is concerned, it is maintained by the Opposite parties that Petitioner No.2 never made an application to the appropriate authority for compassionate appointment and

therefore, her case was not considered. She should not have rushed to this Court without making an application to the Circle Relaxation Committee. Hence this application being devoid of merit is liable to be dismissed.

5. We have heard Mr. S. Mallik learned counsel appearing for the petitioner and Mr. Akhaya Kumar Misra learned Additional Standing Counsel (Central) at a considerable length.

6. On the basis of the averment finding place in the counter, Mr. Akhaya Kumar Misra learned Addl. Standing Counsel (Central) vehemently urged all the above mentioned points and submitted that the prayer of both the petitioners should be out rightly rejected.

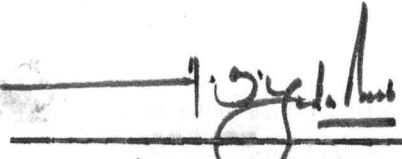
7. While this scheme for compassionate appointment was brought into force or at the time when it was being prepared, the authorities in the Government, who were in charge of preparation of the scheme and subsequently the authorities who had issued certain administrative instructions were well aware of the fact that a dependant of the last bread earner who had died while being employed in the Government, would be necessarily entitled to all retiral benefits of the deceased employee whose dependant prays for a compassionate appointment. Being well aware of this position, the concerned authority in the Government did not place

any provision either in the scheme or in the administrative instructions that those who are getting retiral benefits of the deceased employee are not eligible for compassionate appointment. As far as we know, the rules are completely silent on this point. Mr. Akhaya Kumar Misra learned Additional Standing Counsel (Central) could not place any rules before us indicating such a bar to have been created by the authorities. Since there is no such embargo finding place in the scheme, Mr. Misra learned Addl. Standing Counsel (Central) can never be able to place any such rules on this point. This Bench ^{has} consistently taken the view that in the absence of any embargo placed in the matter so far as the legal representative drawing pension and gratuity ^{is} ~~are~~ concerned, they cannot ~~be~~ ^{be} made ^{be} disentitled to a compassionate appointment on this ground. Therefore, we find no justifiable reason to make a departure from the view already taken in several judgments pronounced by this Bench. Therefore, we find no merit in the aforesaid contention of Mr. Mishra.

8. The next point, namely the ^{Case of the} Petitioner No. 2 ^{one} was considered and was rejected due to age barred has some substantiation ^{ance}. Since the Petitioner No. 1 was aged 45 years and no authority in the Government was empowered to order relaxation the age, we find there is substantial force in the contention of Mr. Akhaya Kumar Misra learned Additional Standing Counsel (Central)

that the case of the Petitioner No.1 was rightly rejected. But so far as the case of the Petitioner No.2 namely daughter of the petitioner No.1 is concerned, true it is she had not made an application to the appropriate authorities and therefore rightly her case was not considered. Since the daughtership of the Petitioner No.2 is not contradicted or controverted, we find that the case of the petitioner No.2, namely ^{ed} G. Bhanu should be sympathetically consider^{ed} and ~~acompassionate~~ appointment should be given to her within 60 days from the date of ^{receipt of} a copy of this judgment keeping in view of the pronouncement of the Hon'ble Supreme Court in the case of Phoolwati Vs. Union of India reported in AIR 1991 SC 469 quoting with approval the observations of Their Lordships in the case of Sushama Gosain reported in AIR 1989 SC 1976. We would further direct the ⁱⁿ Petitioner No.2 namely ~~Kumar~~ C. Bhanu to make an application to the Chief Postmaster General Bhubaneswar enclosing a copy of this judgment making a prayer for compassionate appointment and we hope and trust the Chief Postmaster General, Orissa Circle, Bhubaneswar would order her appointment on compassionate grounds within 60 days from the date of receipt of the application of the petitioner No.2 namely C. Bhanu.

9. Thus, the application stands allowed leaving the parties to bear their own costs.


MEMBER (ADMINISTRATIVE)
06 SEP 93


VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack/K. Mohanty
6th September, 1993.

