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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No.176 of 1994.

Cuttack, this the 8th day of September, 1994.

Smt. Maya Nahak and another ...

Applicants

Versus

Union of India and others ...

Respondents.

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No.176 of 1994.

Cuttack, this the 8th day of September, 1994.

CORAM:

THE HON'BLE MR.H.RAJENDRA PRASAD, MEMBER(ADMN.)

...

1. Smt. Maya Nahak, aged about 51 years,
wife of late Dina Nahak.
2. Sri Rathi Nahak,
aged about 25 years,
son of late Dina Nahak.

B th are of village. Chingidikhhol,
Via. Kodala, Dist.Ganjam.

... Applicants.

By Advocates M/s.P.V.Ramdas
P.V.Balakrishna Rao.

Versus

1. Union of India, represented by
Chief Post Master General, Orissa Circle,
Bhubaneswar-751001.
2. Senior Superintendent of Post Offices,
Berhampur(Gm) Division, Berhampur-760001.
Dist.Ganjam.
3. Sub-Divisional Inspector(Postal),
Berhampur(North) sub-division,
Berhampur-760005, Dist.Ganjam.

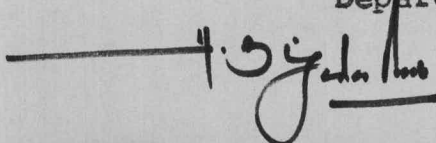
... Respondents.

By Legal Practitioner, Mr. Ashok Misra,
Senior Standing Counsel(Central).

...

ORDER

H.RAJENDRA PRASAD, MEMBER(ADMN.), Shri Dina Nahak, Extra-Departmental
Delivery Agent-cum-Mail Carrier, Chingidikhhol Extra-
Departmental Branch Office under Berhampur(Ganjam) Postal



Division expired in October, 1991, at the age of 56 years, while still in service of the Department of Posts. A compassionate appointment was thereupon offered to his eldest son, Balaram Nahak, and the said Balaram was actually appointed to an E.D. post. It was, however, later found that the school transfer certificate produced by him was a forged document. Balaram's services were, therefore, terminated in April, 1992. In July, 1993 the applicants filed an original application (Q. A. 389/93) before this Tribunal praying for compassionate appointment in favour of the next son of the deceased E.D.D.A., Shri Rathu Nahak. The application was disposed of with a direction to the applicants to remove the deficiencies pointed out by Respondent No. 2 before approaching this Tribunal.

2. The grievance of the applicants in this application is that although the applicants submitted a representation in December, 1993, praying for a compassionate appointment to Rathu Nahak (applicant No. 2), the respondents have not yet considered the case.

3. The respondents say that, on the demise of Shri Dina Nahak his eldest son had been appointed to an E.D. post, and ^{after} the termination of his services owing to his having submitted a forged certificate, a sincere effort was in fact made to appoint Shri Rathu Nahak, the younger son and the present applicant. The matter could not progress, however, because the said Rathu Nahak was

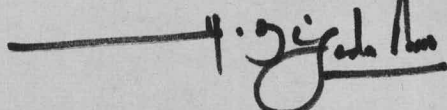
— 4. Singh /ms —

not able to produce legal heir- income- property-certificate^s and the salary-certificate of the eldest son. Since these documents were not produced, it has not been found possible to process the case further.

4. During the course of the hearing of this case, the following orders were passed on 27.6.1994.

" It has been mentioned in the counter that the petitioner is asked to produce property and income-certificate, the salary-certificate and a consent letter from the elder brother, and a legal-heir certificate. The applicant states that he has no property and no income from any source. It is for the respondents to determine as to whether these certificates would still be needed. They may also determine if any salary-certificate from the petitioner's elder brother is really required in this case since they (the respondents) seem to have already decided to entertain the application despite the fact that the petitioner's brother is employed elsewhere. Similarly it may also be examined whether it would be necessary to insist on the consent of the petitioner's brother, since the latter had, in any case, been already offered an appointment earlier but could not take it up owing to his having produced an incorrect education certificate. In my view, it may be unnecessary to insist on the consent of the petitioner's elder brother who has no locus standi in this case, particularly in view of the fact that he has already been offered and failed to avail of the offer made by the department. Should he (the elder brother) be thoughtless enough to challenge or question, at a future date, the appointment of his younger brother, the same shall surely have to be decided on its own merit, if such a case comes up at all in future.

Coming to legal-heir certificate, it is not clear whether such a certificate is insisted upon by the respondents in every case of this nature. The petitioner states that he is the son of late Shri Dinabandhu Nahak. The petitioner's mother confirms this. Since the family admittedly does not possess any property or income, the legal-heir certificate in such a situation could be no more than a mere technical formality. The purpose is equally served by the statement of the petitioner and his mother- unless there is a fundamental underlying reason to suspect their statements. At any rate, during the enquiries in connection with the



collection of documents or completion of synopsis, the fact as to whether or not the petitioner is the son of the deceased official can be easily established and either accepted or rejected on reliable evidence. The respondents may review this case in the light of these observations. The fact that the family of the deceased official is at present in acute financial distress and considerable indigence ought not to be lost sight of and, to that extent, only such minimum technical formalities that are inescapably necessary ought to be insisted on. The possibility that it may not be very easy for the petitioner to obtain a legal heir certificate from the concerned authorities needs also to be borne in mind.

While this is so, the petitioner ought to establish at least the fact that he is literate. This can be proved only by a School Leaving Certificate and I see no escape from this essential requirement. Such a certificate will incidentally also establish the date of birth of the petitioner which is essential before any job is offered to him. The petitioner should thus be ready to fulfil at least this part of the requirements on his side. "

These observations quoted above are clear enough both on facts and implications. The position is the same even now. The case may therefore be examined for further necessary action within a reasonable period, say, 90 days, at the most.

5. Thus, this O.A. is disposed of.

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(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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Saranghi.