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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. NO. 714 OF 1994

Cuttack this the th day of November, 1995

Rabindranath Mallik	Applicant
	Vrs.	
Union of India & Others.	Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? No
2. Whether it be referred to all the Benches of the N. Central Administrative Tribunals or not?

Narasingh, M.
(N. SAHU)
MEMBER (ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. NO. 714 of 1994

Cuttack this the day of November, 1995.

CORAM:

THE HONOURABLE MR. N. SAHU, MEMBER(ADMINISTRATIVE)

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Rabindranath Mallik,
S/o. late Kelu Mallick,
permanently and presently residing
At. Jagannathpur(Bilas), P.O. Tiran,
PS. Tirtol, Dist. Jagatsinghpur.

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Applicant

For the Applicant : M/s. A. Kanungo, D.P. Dhalsamant, N. Rout,
Advocates.

-Versus-

- 1) Union of India represented through Secretary, Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, New Delhi.
- 2) Principal Collector (CZ), Customs & Central Excise Calcutta, 15/1 Strand Road, Calcutta-1.
- 3) Collector of Central Excise, Calcutta-1, Customs House, 15/1 Strand Road, Calcutta-1.
- 4) Collector, Central Excise and Customs House, Central Revenue Building, Rajaswa Vihar, Bhubaneswar-4, Dist-Khurda.

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Respondents

By the Respondents:- Mr. Ashok Mishra, Senior Standing Counsel (Central).

O R D E R

MR. N. SAHU, MEMBER(ADMN.): This application is directed against the order of the Collector, Central Excise and Customs, Bhubaneswar dated 26.9.1994. In that order, the Collector

8

referred to the decision of the Principal Collector, Eastern Zone, Calcutta who rejected the claim of compassionate appointment of the applicant and upheld the same finding. The brief facts leading to the dispute is that the applicant was a minor of four years when his father Kulu Mallick died as a Sepoy in the Department of Central Excise and Customs on 31.8. 1971. The applicant completed his matriculation and after attaining majority applied for a compassionate appointment. Nothing was heard on the representation. His mother, Smt. Haramani Mallick, virtually compelled the Collector to consider her representation after an endorsement to that effect by the SC & ST Commission. By letter dated 15.7.1993, the applicant was informed that there is no prima facie case for compassionate appointment after lapse of 22 years. He moved this Tribunal in OA 483 of 1993. The Tribunal noticed that the prayer of the applicant was rejected because of some discrepancy of his date of birth. The Tribunal directed the applicant to file a xerox copy of the matriculation certificate before Respondent No. 3 renewing his prayer for giving compassionate appointment. Accordingly, Respondent No. 3, was directed to reconsider the matter. The applicant on 10.1.1994, submitted the matriculation certificate alongwith the copy of the order dated 4.1.1993. It is in this background that the impugned order contained in Annexure-5 has been

passed and is under challenge.

2. In the counter-affidavit, it is urged that a case for compassionate appointment cannot be countenanced after 22 years. The widow should have come forward to make a request for her employment immediately after the death of her husband, if she suffered from conditions of penury at that time. If the family could prolong so long there is no justification for considering the claim for compassionate appointment at this stage.

3. The law on the subject of compassionate appointment stands settled by a number of decisions of the Supreme Court. In a recent case in Umesh Kumar Nagpal Vs. State of Harayana 1994 27 ATC 537, the Supreme Court held that the object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis. Mere death of an employee does not entitle his family to compassionate appointment. The authority concerned must consider as to whether the family of the deceased employee is unable to meet the financial crisis resulting from the employee's death. It is next laid down by the Hon'ble Supreme Court that the grant of compassionate appointment after the lapse of a reasonable period is illegal, impermissible.

10

4. No evidence or arguments has been led about the penury of financial distress of the family. It is inconceivable that a claim for compassionate appointment is placed before this Tribunal 22 years after the death of the main bread winner.

5. I do not consider that there is any case whatsoever to interfere with the order of the respondents which is in accordance with the decision of the Supreme Court on the subject. The petition is dismissed. No costs.

Narasimha Sahu
(N. SAHU)
MEMBER (ADMINISTRATIVE)

BKSahoo.