

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No. 776 of 1994  
Cuttack this the 3<sup>rd</sup> day of April, 1996

Dibakar Barik

...

Applicant(s)

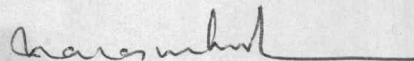
Versus

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 Tribunal or not ? No.



(N. SAHU)

MEMBER (ADMINISTRATIVE)

11

CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No. 776 of 1994

Cuttack this the day of April, 1996

C O R A M:

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

...

1. Dibakar Barik  
S/o. Late Maheswar Barik  
At : Bagakia,  
PO : Bankeswar,  
Dist : Balasore

...

Applicant

By the Advocate:

M/s. K.K. Swain  
A.K. Rath  
P.N. Mohanty  
M.R. Nayak

Versus

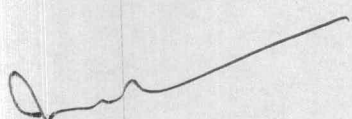
1. Union of India, represented  
through it's Secretary in  
Defence Department  
At/PO/FS: New Delhi
2. Chief Engineer (Engineering Branch)  
Head Quarter, Eastern Command  
At: Fort William  
Calcutta-21
3. Chief Engineer (P)  
R & B, Pucket  
Secunderabad  
Andhra Pradesh
4. Garrison Engineer (Indep)  
R & B Balasore,  
Chandipur Post  
At/PO/FS Chandipur  
Dist : Balasore

...

Respondents

By the Advocate:

Mr. U.B. Mohapatra,  
Additional Standing  
Counsel (Central)





ORDER

12

MR.N. SAHU, MEMBER (ADMN): The claim in this case is for a direction to the respondents to appoint the applicant either as a L.D.C. or Meter Reader, under the Rehabilitation Assistance Scheme, within a time-frame.

2. The brief facts are not in dispute. The applicant's father died on 6.12.1990, at the age of 47. The applicant applied to the Chief Engineer (P), R & B, Secunderabad, Andhra Pradesh to appoint him as L.D.C. on compassionate ground. The Garrison Engineer, R & B, Balasore, by his letter dated 14.11.1992, required the applicant to intimate whether he would be willing to accept the post of Meter Reader instead of L.D.C. and if so, his willingness was solicited. By the letter dated 22.11.1992, the applicant expressed his willingness to accept the post of Meter Reader. The grievance of the applicant is that till now he received neither an appointment as L.D.C. nor that of a Meter Reader.

2. The counsel for the respondents stated that if the applicant had applied for a post of Mate, there was a vacancy and he would have been absorbed, but he applied for L.D.C. on 17.7.1991 for which he is qualified and empanelled for appointment. He mentioned that he is at Sl. No.35 in the list of persons waiting for appointment as L.D.C. and 15 have already been appointed. This list of persons is prepared taking the date of death of the main bread-winner in a chronological manner. With regard

to the post of a Meter Reader, learned counsel for the respondents says that it is a 100 per cent promotional post from the post of Mate in which the applicant's father was working.

3. I have heard the learned counsel for the respondents Shri U.B.Mohapatra. Nobody appeared at the time of hearing of this case on behalf of the applicant. There is a contradiction in the stand of the respondents. They had themselves solicited the willingness of the applicant for the post of a Meter Reader instead of L.D.C. on 14.11.1992. Accordingly, the applicant had sent his willingness on 22.11.1992. The post of Meter Reader is not a Gazetted post. It is either a Group D or Group C post to which appointments on compassionate grounds can be made. Obviously the applicant is qualified for the post of Meter Reader, otherwise the applicant's willingness could not have been officially solicited. There was also a vacancy in the post of Meter Reader. That apart, it is admitted that the applicant is also qualified for the post of L.D.C. The question at issue is whether the respondents are justified in delaying the appointment to him.

4. I am amazed to note that the respondents in their counter-affidavit cited the decision of the Supreme Court regarding Umesh Kumar Nagpal in defence of their stand. They have not read the order of the Supreme Court properly. The Supreme Court consistently held in a series of decisions that a compassionate



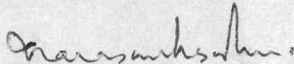
appointment is made only to relieve the dependants of the bread-winner from penury and starvation. There is absolutely no point in delaying the appointment. The bread-winner died in this case on 6.12.1990. The applicant had applied in 1991. He was informed in 1992 that they were prepared to consider his appointment as Meter Reader to which he consented. It is to be clearly inferred from Annexure-3 by which Shri K.K.Khosla, Garrison Engineer had written to the applicant for seeking his willingness for the post of Meter Reader, his qualifications were considered, his suitabilities were adjudicated upon, and thereafter the offer was given. It is illogical to keep the applicant waiting once his consent is sent on 22.11.1992. Whether it is a promotional post or an entry post is immaterial. Wherever there is a vacancy the applicant has to be absorbed as a measure of relief and rehabilitation. The very fact of delay defeats the sole purpose of giving compassionate appointment.

5. I, therefore, direct that within a period of four weeks from the date of receipt of this order, the applicant be appointed either to a post of Meter Reader or to the post of a L.D.C.

Keeping people on the waiting list for years together does not serve any purpose. If the post of L.D.C.s are not released or there is some hitch about

the vacancy, it does not mean that compassionate appointments shall get postponed. Postponing an appointment <sup>as it</sup> ~~as~~ <sup>on</sup> happened in this case by more than 5 years is impermissible. The respondents are advised before I part with these records, to ensure that once they decide to give appointment on compassionate grounds, it should be done within a reasonable period in order to be effectively helpful to the dependants of the deceased who are deprived of sustenance because of the premature death of the sole bread-winner. In doing so they will only comply with the proposition of law consistently laid down by the Supreme Court in a number of cases. One of them, quoted by the respondents in their counter-affidavit is that of Umesh Kumar Nagpal.

6. The application is allowed with the above observations. Cost of Rs.500 be paid to the applicant.



(N. SAHU)

MEMBER (ADMINISTRATIVE)

B.K.Sahoo//