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Vrs.

(FOR INSTRUCTIONS)

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no

Marasimkuzha.

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 312 OF 1995  
Cuttack, this the 6th day of November, 1995

CORAM:

THE HONOURABLE SHRI JUSTICE D.P. HIEMATH, VICE-CHAIRMAN  
AND  
THE HONOURABLE SHRI N. SAHU, MEMBER (ADMINISTRATIVE)

....

Shri Umakanta Behera,  
aged about 35 years,  
son of Kalandi Behera,  
At/P.O-Patuli,  
Via-Barikpur Bazar,  
District-Bhadrak

... Applicant

By the Advocates

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M/s Deepak Misra, A. Deo,  
B.S. Tripathy, P. Panda &  
R. Rath.

-versus-

1. Union of India, represented by its Secretary in the Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
3. Assistant Director (Recruitment), Office of the C.P.M.G., Orissa Circle, Bhubaneswar, District-Khurda.
4. Circle Relaxation Committee, Orissa Circle, represented by its Chairman, Office of the <sup>Chief</sup> Post Master General, Orissa Circle, Bhubaneswar, Dist. Khurda.
5. Superintendent of Post Offices, Bhadrak Division, Bhadrak ... Respondents.

By the Advocate

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Mr. Ashok Misra,  
Senior Standing Counsel  
(Central).

O R D E R

D.P.HIREMATH, VICE-CHAIRMAN

The applicant herein has sought regularisation of <sup>his</sup> services as Extra Departmental Mail Carrier on compassionate ground as his father, who was serving in the same post at Patuli Branch Post Office, died on 3.11.1990. He had put in twenty-five years of service by that time. As per Annexure-1 the applicant was appointed on provisional basis in the same post by the order of the Sub-Divisional Inspector (P), Bhadrak West Sub-Division, dated 15.12.1990. It is not disputed that the applicant still continues in service in the same capacity, namely, provisionally. It is not clear as to on what date he applied for compassionate appointment, but it is not disputed that the Circle Relaxation Committee, Orissa Circle, turned down his prayer on the ground that he had not possessed minimum educational qualification for the post and there is no provision for relaxation of the educational qualification of the words. This order is dated 30.5.1995. In the said order reference has been made to the qualification of the words. It clearly follows that the said Committee had before it the application of the applicant for compassionate appointment.

2. The application has been opposed on the same ground on which his prayer was turned down by the Circle Relaxation Committee. It is brought to our notice that the qualification of minimum 8th standard was prescribed by the Rules that came into force in 1993, i.e., with effect from 1.4.1993. The respondents' counsel admits that <sup>when</sup> this order came to be passed, the Rules of 1993 had come into force, but not when the applicant was appointed initially in the year 1990. Necessarily, the Rules that governed the appointment in the year 1990 would be applicable. We are not in a position to know whether no educational qualification was prescribed at all in the year 1990 or a lesser standard of educational qualification was required to be fulfilled. At any rate, it is patently clear that the Circle Relaxation Committee was not justified in turning down the application of the applicant on the ground that he had not possessed the minimum educational qualification that was required to be possessed under the Rules that came into force in 1993. It is also not disputed that the applicant has continued in the same post since his appointment in the year 1990. That being so, as the applicant's

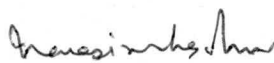
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father had died before he was provisionally appointed, the applicant is now entitled to pray for compassionate appointment which is a right given to him. Accordingly, in allowing this Original Application partly, we direct that the applicant shall be considered by the competent authority in the light of the Rules that were in existence before 1993. His application shall be disposed of within 90 (ninety) days from the date of receipt of a copy of this order. He is entitled to continue in the same post till his application is disposed of.

3. With the aforesaid observation and directions, the Original Application is disposed of.

  
(N.SAHU)  
MEMBER (ADMINISTRATIVE)

  
(D.P.HIREMATH)  
VICE-CHAIRMAN

Nayak, P.S.