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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 393 OF 1995

Cuttack this the 30th day of October, 1996.

SIMANTA MANGARAJ MOHAPATRA

.....

APPLICANT

VERSUS

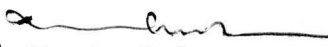
UNION OF INDIA AND OTHERS.

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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?


(N. SAHU)
MEMBER (ADMINISTRATIVE)

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 393 OF 1995

Cuttack this 30th day of October, 1996

CORAM:

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

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Simanta Mangaraj Mohapatra,
aged about 31 years,
Son of late Abhaya Kumar Mohapatra,
At/Po. Korkora, Via. Arnabal, Dist. Bhadrak. APPLICANT

By Legal Practitioner : M/s. R.N. Naik, A. Deo, B.S. Tripathy,
P. Panda, R. Rath, Advocates.

-Versus-

1. Union of India represented by its
Secretary, Department of Posts,
Dak Bhavan, New Delhi.
2. Chief postmaster General, Orissa Circle,
At/Po-Bhubaneswar, Dist. Khurda.
3. Superintendent of Post Offices,
Bhadrak Division, At/Po/Dist. Bhadrak. RESPONDENTS.

By the Legal Practitioner : Mr. Ashok Mishra, Senior Counsel.

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ORDER

MR. N. SAHU, MEMBER (ADMN.): The Mother of the applicant
Smt. Jyotirmoyee Jena worked as Branch Post Master in Korkora
Branch Office. She died on 12-4-1994 leaving behind the
applicant, two other sons and two daughters. Amongst them,
two sons and two daughters were married. At the time of her
death, she was 64 years of age and had earned 38½ years of
service. The applicant has applied for the post of Branch

Postmaster and filed a representation for an appointment on compassionate ground. The said representation of the applicant was rejected by the Circle Relaxation Committee on 12-6-1995 on the ground that two sons are employed and the financial condition of the applicant is not indigent.

2. There are two sons and three daughters of the deceased when she died after rendering nearly 39 years of service in the Department. The eldest son Shri Shivaji Mangaraj Mohapatra is employed in Orissa Sponge Iron Ltd., with a monthly income of Rs. 4,224/-. The second son Shri Sidhartha Mangaraj Mohapatra is also employed in Coal India Ltd., Talcher with monthly emoluments of Rs. 3,226.08. The Circle Relaxation Committee also considered that the family has six acres of agricultural land with an annual income of Rs. 15,000/- as per the Certificate of Bhadrak Tahasildar under Misc. Certificate No. 694/94 dated 28-4-1994. Presumably in view of the above background, the CRC rejected the claim.

3. At the time of hearing, the learned Counsel for the applicant filed a Certificate from Shri Binod Kumar Nayak Sarapancha dated 21-6-1995 to the effect that the two living sons mentioned above of late Abhaya Kumar Mohapatra stayed separately since long and they did not take care of the

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applicant who is the third son. There was a similar certificate dated 24-8-1995 from Shri Prafulla Samal, M.L.A, Bhadrak Constituency. It is also stated that there was a division of property amongst the family members of late Abhaya Kumar Mohapatra comprising of Smt. Jyotirmayee Jena and the three sons. According to the learned Counsel for the applicant, this is conclusive proof that the earning members of the family were completely separate and are of no assistance to the applicant.

It is contended by Shri Ashok Mishra, learned Senior Counsel on the basis of the counter-affidavit that the Certificate showing separation of his two brothers was neither produced before nor is submitted alongwith this application. Secondly, the no objection declaration of the brothers to the applicant's appointment throws a doubt on their separation of status and property as claimed by the applicant.

4. The submission of the applicant's counsel is that the Circle Relaxation Committee did not take note of the devided sons and division of properties. If the substantial income earned by the sons was any ground to consider the affluence of the family, such a consideration, it is submitted, is vitiated. In R.B. Sirsu vs. UOI (1992) 20 ATC 793 Madras is a case similar to the one we have at hand, indigence was pleaded on the ground that only source of income was the meagre amount of pension received by the husband and wife.

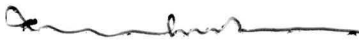
The eldest son was employed but he was living separately. Denial of compassionate appointment to the second son was upheld on the ground that there was an obligation of ^{part of the} maintenance on the/eldest son towards the parents based on comparative income of son and parents. This case, it is urged by the applicant's counsel, would not apply because the mother died and the applicant has no adequate means of livelihood.

5. Compassionate appointment is given to enable the appointee to look after the dependent members of the ~~sub-~~^{Sole} bread winner who after his death are reduced to destitution and penury. Compassionate appointment is not a medium to secure an appointment to any member of the family as a means of livelihood. It is only a method to help other bereaved and dependent members of the deceased as a token of response to the long years of service rendered by him to the Government. In this case, the mother is no more; the other brothers are earning and independent; the applicant need not have to support any other members. Hence he can not claim a rehabilitation assistance. He can assist no body else except himself.

6. The Circle Relaxation Committee has considered the case of the applicant keeping in view the O.M. dated 23.5.1978 and O.M. dated 30.8.1977 of the Government of India, Ministry of Personnel, Public Grievances and Pensions. It will not be

appropriate to review the decision taken by them after due consideration of the relevant entries in the absence of any mala fides alleged and proved. In the case of Kunhikrishna Kurup Vs. General Manager, Telecommunications (1990) 12 ATC 40 it is held that whether a family is indigent and is in great distress, is a matter to be decided on facts. In (1994) 27 ATC 174 (LIC of India Vs. Asha Ramachandra Ambekar), the Supreme Court admonished the High Courts and Tribunals not to confer benediction impelled by sympathetic consideration. Thus, this Tribunal can not step in as an appellate authority unless there is a specific violation of rules or mala fides are proved. This Tribunal can not direct a review of compassionate appointment, but can only adjudicate on procedural irregularities. In the present case the partition deed does not show an indigent and needy family. The division of the house and the lands is by metes and bounds. The applicant did get a due share of house property lands and other movables. He was assured of economic support from her mother during her life time. The impression conveyed to me is that the applicant does not deserve compassionate appointment and the Circle Relaxation Committee had adequate material for coming to this conclusion.

7. Thus, I find no merit in this petition which stands dismissed. No costs.


(N. SAHU)
MEMBER (ADMINISTRATIVE)

KNMohanty.