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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 525 of 1995

Date of Decision: 9.2.1996

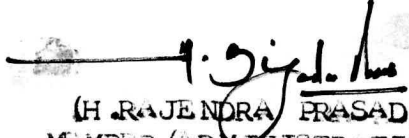
Smt.N.Rajeswari & Other ... Applicants

Versus

Union of India & Others ... Respondents

(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.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 525 of 1995

Cuttack this the 9th day of February, 1996

CORAM

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

...

1. Smt. N. Rajeswari, aged about 30 years
Wife of Late N. Gopalswami, Permanent
Resident of Tootipur, PO: Tootipur
P.S. Jaraga, Tahasil-Chikiti
Dist: Ganjam
2. N. Dharma Rao, aged about 25 years
Son of Late N. Gopalswami, Permanent
resident of Tootipur, PO: Tootipur
P.S. Jaraga, Tahasil-Chikiti
Dist: Ganjam

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Applicants

By the Advocate: M/s. A. S. Naidu
P. K. Mohapatra
A. K. Rath

Versus

1. The Chief General Manager, Telecom
Orissa, Orissa Telecom Circle,
Bhubaneswar, At/PO: Bhubaneswar
Dist: Khurda
2. The Director, Telecom
At/PO/Dist: Sambalpur
3. The Telecom District Engineer
At/PO:/Dist: Sambalpur

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Respondents


By the Advocate: Mr. Ashok Mishra
Standing Counsel (Central)

...

ORDER

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) : Shri N. Gopalswami, a Telephone Operator in Sambalpur Telecom District, passed away on 9th April, 1992, after rendering nearly 26 years of service. He left behind a widow (Applicant No.1 in this Original Application) and a daughter. Applicant No.2, Dharmarao is the nephew (elder sister's second son) of Gopalswami. After the demise of the said Shri Gopalswami, applicant No.1 (Smt. Rajeswari), submitted a representation seeking the appointment of the said Dharmarao (applicant No.2) on compassionate grounds. The basis for seeking such appointment for Dharmarao was that late Gopalswami had "socially" adopted him on 3.3.1993, viz., a year before his (Srinivas Rao's) demise.

2. The authorities, on examining the case, rejected the candidature of Dharmarao, but agreed to offer an appointment to Smt. N. Rajeswari (Applicant No.1), since she happened to be the legally wedded wife of the deceased Government servant. Smt. Rajeswari submitted another representation on 7th October, 1994, requesting that Dharmarao's candidature be reconsidered since she was herself an illiterate lady and was also not in a position to leave her only daughter - a cripple and victim of polio - unattended. She claimed that Dharmarao's adoption by Gopalswami took place in the presence of reputable persons of the village. As against this statement, the applicant herself admits



that the adoption deed was drawn up and executed much after the demise of her husband, on being demanded by the department. Her second representation, according to her, remains undisposed.

3. The applicant prays for the appointment of Dharmarao on the ground that the respondents' inaction infringes her constitutional rights; that they are bound to accommodate persons from the family under the scheme of compassionate appointments; that the respondents' decision not to give appointment to Dharmarao is not 'structured on rational considerations', and is therefore, unjust.

4. The respondents in their counter-affidavit state that the said Dharmarao (Applicant No.2) is indeed the nephew of Gopalswami but the adoption was made by Smt.Rajeswari much after the demise of Gopalswami, a fact confirmed by the Executive Deed filed by her (Annexure-R-1). They also state that no intimation regarding any adoption - social or legal - was ever given by Sri Gopalswami during his life-time. On the other hand, the family particulars furnished by Shri Gopalswami on 17.1.1991 (Annexure-R-2) do not contain Dharmarao's name in any capacity. As regards the Legal Heir Certificate issued by the Additional Tahasildar, Chikiti, Patrapur (Misc. Certificate Case No.115/1993, on 12.7.1993) it was based on an affidavit sworn by Smt.Rajeswari. It is further explained by the respondents that whereas

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a provision existed earlier for extending the scope of compassionate appointments to near-relatives of a deceased government servant, the same was altered by the deletion of the said provision by the Government of India on 9.12.1993, in pursuance of ^ASupreme Court case. They have produced the relevant orders in this regard (Annexure-R/7). It is pointed out by them that even the affidavit sworn by Dharmarao on 18.2.1994 before the Executive Magistrate, Sambalpur, indicates that he is the dependant nephew of late Gopalswami, and that the applicant had herself stated in her representation dated 14th September, 1992, (Annexure-2) that Dharmarao was her husband's elder sister's son, and that he had been only brought up like own son by herself and her husband; there is no mention of any adoption even on this date. The respondents submit that the Department has been fair to the applicant by offering her a suitable appointment on compassionate grounds, and that the provisions of the scheme preclude them from offering a similar appointment to Applicant No.2.

5. It is evident that Dharmarao's legal adoption was made much after the demise of Shri Gopalswami. The rules governing the scheme of recruitment in relaxation of normal rules do not envisage or permit his appointment. The Department is quite right in offering a job to Applicant No.1.

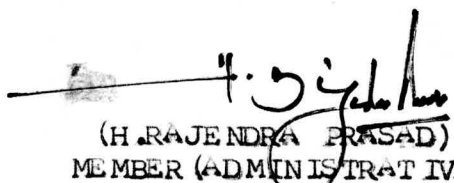
6. Under the circumstances, it is held that

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applicant No.2 is not eligible to be considered for appointment on compassionate grounds arising out of the demise of Gopalswami. The application is disallowed. The applicant No.1 would be well-advised to accept the offer of appointment given to her by the Department. If she gives her consent to her own appointment, the respondents shall take further action in the matter at a very early date in order to alleviate the financial distress of the late Gopalswami's family.

Thus the Original Application is disposed of. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

09 FEB 96.

B.K.Sahoo//