

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION No. 694 OF 1995.

Cuttack this the 13<sup>th</sup> day of April, 1999.

Lingaraj Das. .... Applicant.  
-Versus-  
Union of India & Ors. .... Respondents.

( FOR INSTRUCTIONS )

1. Whether it be referred to the reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? NO.

*Somnath Som*  
(SOMNATH SOM)  
vice-Chairman. 13.4.99

13.4.99  
(G. NARASIMHAM)  
Member (Judicial)

(7)

Central Administrative Tribunal  
Cuttack Bench, Cuttack.

Original Application No.694 of 1995.

Cuttack, this the 13<sup>th</sup> day of April, 1999.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G.NARASIMHAM, MEMBER(JUDL.)

....

Lingaraj Das, aged about 33 years,  
S/o. late Fakir Das of Village/  
Post-Routpada, Via. Begunia, Dist. Khurda. ... Applicant.

By legal practitioner: M/s.M.M. Basu, S.S. Mohapatra, P. Behera,  
T.K. Rath, Advocates.

-Versus-

1. Union of India represented by  
General Manager, South Eastern  
Railways, Garden Reach,  
Calcutta-43.
2. Principal Director of Audit,  
South Eastern Railways, Garden Reach,  
Calcutta-43.
3. Divisional Railway Manager,  
South Eastern Railways,  
Khurda Road, Post/Ps. Jatni,  
District, Khurda.
4. Senior Divisional Audit Officer,  
South Eastern Railways, Khurda Road,  
Post/Ps. Jatni, Dist. Khurda. ... Respondents.

By legal practitioner: Mr. Ashok Mohanty, Senior Standing  
Counsel (Railways).  
Mr. A.K. Bose, Sr. Standing Counsel (Central)

....

O R D E R

MR. G.NARASIMHAM, MEMBER(JUDICIAL) :

In this Original Application under section  
19 of the Administrative Tribunals Act, 1985, filed on 27th  
of November, 1995, the applicant Lingaraj Das, claiming to be

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the adopted son of Fakir Das, who died on 2.1.1979 while working under Respondent No.2, seeks a direction to the Respondents to appoint him on compassionate ground against any vacancy suitable to his educational qualification with retrospective effect i.e. from the date of his attainment of majority with all consequential financial benefits.

There is no dispute that he is the adopted son of late Fakir Das. There is also no dispute that wife of Fakir Das pre-deceased him. Though the application contains various facts relating to arrear retiring dues of late Fakir Das, the relief being only for appointment on compassionate ground, those facts need not require to be dealt in this order.

According to the applicant, because of the death of Fakir Das he had to discontinue his studies to find out a job for his maintenance. Soon after attaining the age of majority, he obtained a transfer certificate from his School and approached Respondent No.3 and 4 for service on compassionate ground, but without any success. However, he was appointed on casual and seasonal basis as hot weather staff by Respondent No.2 during summers in the year 1993, 1994 and 1995. Still he has not left his pursued <sup>for</sup> of seeking regular appointment on compassionate ground. In letter dated 29.6.1995 (Annexure-3), Respondent No.2 intimated him that his application dated 15.6.1993 for appointment on compassionate ground has not been acceded to by his Head of Office.

Hence this application.

2. Respondents 2 and 4 filed counter. Respondents 1 and 3 though entered appearance through his Special counsel, had not filed any separate counter.

Respondents 2 & 3 submit in their counter that Respondent No. 2 is not the <sup>Head</sup> ~~Head~~ of Office but he is the Head of the Department and Respondent No. 4 is not the establishment under Respondent No. 3. According to them, there is discrepancy as to the date of birth of the applicant. In the nomination paper filed by late Fakir Das, it was mentioned as 1.7.1959. In the School Certificate under Annexure-4, the date of birth is shown as 18.3.1962 while in succession certificate obtained from the Court, it has been mentioned as 8.1.1961. In order to settle this discrepancy, opinion was ultimately sought for from the Comptroller and Auditor General of India who clarified that the case should be regulated by taking the date of birth as 1.7.1959 mentioned in the nomination paper filed by late Fakir Das. Hence applicant attained majority on 1.7.1977 by which time his father was still alive. It was, therefore, open for him to apply for compassionate appointment soon after the death of his father. But he failed to do so. No application for such appointment was received prior to 26.4.1984, although he had applied, in plain paper, on 21.7.1983 for a regular Gr.D Post. His application dated 26.4.1984 was considered but not acceded to as it was received more than five years after the death of the father of the applicant. Applicant again applied for appointment on compassionate ground on 10.3.1994. His application was referred by the Respondent No. 2 to the Comptroller and Auditor General

of India who in his letter dated 8.6.1995 rejected the request for such appointment and this was duly communicated to the applicant in letter dated 29.6.1995

3. It is the further stand of the Respondents that the applicant had received all benefits of his late father as sole legal heir and as per the legal position, compassionate appointment is given only to enable the family to tide over the sudden crisis and mere death of an employee in harness does not entitle his family to such source of livelihood.

On the above grounds, the Respondents <sup>pray</sup> approached for dismissal of the Original application filed by the applicant.

4. No rejoinder has been filed by the applicant refuting the facts mentioned in the counter ~~filed~~ by the Respondents.

5. We have heard Shri M.M. Basu learned counsel for the applicant, Mr. Ashok Mchanty learned Senior counsel appearing for Respondents 1 and 3 and Shri A.K. Bose, learned Senior Standing Counsel appearing for Respondents 2 & 4 and taken note of their submission. We have also perused the records.

6. AS earlier stated that the applicant had not filed any rejoinder denying the relevant facts averred in the counter. According to the Respondents, the first application for compassionate appointment was received on 26.4.84 ~~10.3.1994~~. Even assuming his date of birth mentioned in the



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School certificate as 18.7.1962 is accepted<sup>as</sup> correct, the applicant had attained the majority in July, 1980 but he had applied for such appointment after three and half years, which was duly considered and rejected. Thereafter, he could have approached the Tribunal seeking for compassionate appointment but for the reasons best known to the petitioner, he did not choose to do so. It is only after he was engaged on casual and seasonal basis as Hot weather staff in July, 1993, the idea of pursuing for compassionate appointment had occurred to him, and accordingly on 10.3.1994 he made another attempt in making application for compassionate appointment. This was ultimately turned down by the Comptroller and Auditor General of India who has not been represented in this case and as such his order of rejection can not be effectively determined in this case.

This apart, as earlier stated, there is undoubtedly abnormal delay in approaching this Tribunal seeking compassionate appointment as per the facts already discussed. We, therefore, do not see any merit in this Original Application.

7. In the result, the Original Application is dismissed but in the circumstances, there shall be no order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN 13.4.99

*G. Narasimham* 13.4.99  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)