

3

4

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.8 OF 1995
Cuttack, this the 19th day of May, 1995

Shri R.Lakheswar Rao

...

Applicant

-versus-

Union of India and another

...

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?

yes


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

19 MAY 95


(D.P. HIREMATH)
VICE-CHAIRMAN

...

4

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.8 OF 1995
Cuttack, this the 19th day of May, 1995

CORAM:

THE HONOURABLE SHRI JUSTICE D.P.HIREMATH, VICE-CHAIRMAN
AND
THE HONOURABLE SHRI H.RAJENDRA PRASAD, MEMBER (ADMN.)

...

Shri R.Lakheswar Rao,
aged about 24 years,
son of late R.Venkata Rao,
a permanent resident of
village Jeypore, Dist.Koraput
at present residing in Qr.No.BC/12,
DNK Colony,
P.O/Dist.Koraput,
Pin-764 020

...

Applicant.

By the Advocates

-

M/s A.K.Misra,
S.K.Das,
S.B.Jena &
J.Sengupta.

-versus-

1. Union of India represented through
its Secretary to Government of
India, Ministry of Home Affairs,
Department of Internal Security,
Rehabilitation Division,
Jaisalmer House, Mansing Road,
New Delhi.
2. The Deputy Secretary,
Ministry of Home Affairs,
Department of Rehabilitation,
IInd Floor, 8 Esplanade Road (East),
Calcutta-700 069 ...

Respondents.

By the Advocate

-

Shri Ashok Misra,
Sr.Central
Govt.Standing
Counsel.

...

O R D E R

D.P.HIREMATH, VICE-CHAIRMAN

The applicant, son of R.Venkata Rao who was employed in Dandakaranya Project ('DNK Project' for short) and died on 29.1.1989, has approached this Tribunal with a request for compassionate appointment. His representation to the Deputy Chief Administrator, DNK Project to give him appointment on compassionate ground under rehabilitation assistance scheme did not meet with fruitful results. This in short is the prayer of the applicant. He is 24 years of age. In the counter the respondents contended that his application for compassionate appointment was made when the DNK Project was in the process of being wound up. The employees of the erstwhile DNK Project were declared surplus and redeployed in other Central Government organisations. However, concerted efforts were made to accommodate 41 wards of the deceased employees on Group 'C' posts and 29 wards for appointment on Group 'D' posts in DNK Project as their breadwinners had died much earlier than the applicant's father. Attempts were made to rehabilitate them by circulating the list to all the organisations under the Ministry of Home Affairs for their possible absorption, but this exercise did not yield tangible results. The applicant also has to wait his turn in the list of such applicants

6

7

now waiting to be appointed only on compassionate ground under the rehabilitation assistance scheme. They also stated how the constraints worked against their anxiety to accommodate as many as possible. The entire counter only highlights this, namely, that in view of the large number of similarly placed persons waiting for compassionate appointment, it has become practically impossible to dispose of all the cases at one time.

2. The averments made in the counter of the respondents are not shown to be in any way made to avoid giving compassionate appointment to the applicant. The fact that the Project was wound up is undisputed and necessarily it is the Home Ministry in its Rehabilitation Section that has to work out the existing vacancies and make inquiries about such other existing vacancies in other Departments and accommodate as and when vacancies occur or are made available. The applicant's counsel invited our attention to the decisions of the Supreme Court in the case of Smt. Sushma Gosain and others v. Union of India and others (AIR 1989 SC 1976) and in the case of Smt. Phoolwati v. Union of India and others (AIR 1991 SC 469).

Ar

8

-4-

3. In Phoolwati's case (supra) the Supreme Court directed creation of supernumerary post as compassionate appointment was considered to be provided immediately to redeem the family in distress. In the case of Sushma Gosain (supra) the Supreme Court took exception to the respondents taking any shelter under a subsequent ban against appointment of ladies made in 1985 when the application was made some years prior to it. They had not to wait till the ban came so as to deny the opportunity to the petitioner. In our view, the decisions in both the cases are not applicable to the facts of the instant case for the reason that DNK Project is no longer in existence so as to be given a direction by this Tribunal to create a supernumerary post. If at all the efforts are to be made to accommodate the applicant, it should be only by referring to other Department by the Home Ministry for possible vacancy to accommodate the applicant.

4. The respondents' counsel invited our attention to a decision of this Tribunal and that of the Delhi High Court to make ^{his} ~~this~~ point. This Tribunal in O.A.No.434 of 1993 (Debasis Patnaik v. Union of India & ors) ^{an employee} (decided on 18.1.1994) had an analogous case in which of DNK

8

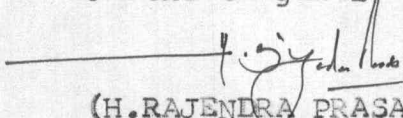
9

Project had died and his dependant sought compassionate appointment. This Tribunal observed and pointed out that since DNK Project had already been wound up and several persons were deployed to the Surplus Cell for being adjusted in any other organisation, rightly it was not possible on the part of the concerned authority ^{immediately} to give appointment to the petitioner on compassionate ground. Though it was an unfortunate case, the circumstances stood in the way of the petitioner which could not be helped in any manner whatsoever. In CW 1690/90 (Yes Pal Sharma v. Union of India) decided by the Delhi High Court on 29.1.1992, the respondents had taken the stand that the case of the petitioner had been forwarded to the Rehabilitation Division of the other Ministry of Home Affairs along with similar cases for consideration, and the High Court hoped and trusted that the respondents would consider the case of the petitioner in his turn in seniority.


5. Thus in both these cases the facts of which are similar to the facts of the case before us, the question of accommodating on compassionate ground of the respective petitioner was under the rehabilitation assistance scheme. Shri Ashok Misra for the respondents

for

urged before us that as no specific Department is involved, the question of creating supernumerary post does not arise and necessarily the Home Ministry has to depend on the vacancies arising in different Departments and making available for being considered in cases of this nature which are pending. In that view of the matter, according to him, the applicant has necessarily to wait for his turn. In our view, the difficulties in the way of respondents appear to be genuine inasmuch as we could not be in a position to make a similar direction as made in Phoolwati's case (supra) for creation of supernumerary post. We can only direct that as and when the applicant's turn comes he should be accommodated and at any rate the consideration of his case should be expedited. With this discussion, we direct the respondents to consider the applicant's case as expeditiously as possible and in case by the time his turn comes, his case becomes age barred, the respondents shall relax the age and give him appointment on compassionate ground. With this direction, we dispose of the Original Application.


(H. RAJENDRA PRASAD)
MEMBER (ADMN)

19 MAY 95


(D. P. HIREMATH)
VICE-CHAIRMAN

A. Nayak, P. S.