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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 350 OF 1996
Cuttack this the 7th day of October, 1999

Pabitra Gochhayat

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
1.10.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK, BENCH, CUTTACK

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ORIGINAL APPLICATION NO.350 OF 1996

Cuttack this the 7th day of October, 1999

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

...
Pabitra Gochhayat,
alies Nayak, aged about 24 years,
Son of Late Arakshita Gochhayat,
alies Nayak, resident of Village/Po/P.S.
Kakatpur, District : Puri, Orissa

Applicant

By the Advocates : M/s.K.C.Kanungo
B.D.Rout
S.S.Behera

-Versus-

1. Union of India represented by
Secretary, Department of Mines,
Sastri Bhawan, New Delhi
2. Director General
Geological Survey of India, 27, Jawaharlal
Nehru Road, Calcutta-16, West Bengal
3. Deputy Director General, Geological
Survey of India, Eastern Region, M.S.O.
Building, C.G.O. Complex, Sector-1 of
DF Block, 5th floor, A Block,
Calcutta-64, West Bengal
4. Deputy Director General,
Geological Survey of India, Operations,
Orissa, Unit-8, Bhubaneswar-12, Dist: Khurda

Respondents

By the Advocates : Mr.A.K.Bose
Sr.Standing Counsel(Central)

S. Som.

ORDER

MR.SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to respondents to appoint him on compassionate ground as he fulfils all conditions.

2. Applicant's case is that his father Arakshita Nayak, while serving as Driver under the Deputy Director General, Geological Survey of India, Bhubaneswar, passed away on 12.8.1988 leaving behind his widow, three daughters and one son, the present applicant. The applicant belongs to Scheduled Caste. After the death of the father, family is in indigent condition. The widow made representation for compassionate appointment of her son, the present applicant and this was rejected in order dated 25.3.1994 vide Annexure-1 in which it has been mentioned that the educational qualification certificate produced by the applicant was verified from the School and it was confirmed that the certificate is not genuine. On this ground the prayer for compassionate appointment was rejected. The letter dated 25.1.1994 issued by the Headmaster, Kakatpur High School is at Annexure-2 and from this it appears that the certificate given by the applicant was not genuine. According to school record, the copy of original Transfer Certificate showing the name of the applicant has been extracted. In this certificate, which ^{is} the extract of Original T.C. ^{the} name of the applicant is shown as Shri Pabitra Gochhayat and the name of his father is shown as Arakhit Gochhayat. In the records of Res.4, name of the applicant's father is recorded as Arakhita Nayak. The applicant's case is that he belongs to Scheduled Caste by denomination "Hadi" and

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there are persons in this caste known by the surname Gochhayat and Nayak and his father, who was working under the respondents was known as Arakhita Nayak. But the applicant was admitted in the school with the surname Pabitra Gochhayat, that is how the difference has arisen and the respondents should not have rejected his case for compassionate appointment without further verification of the genuineness of the claim. On these averments the petitioner has come up in this application with the prayers referred to earlier.

3. Respondents in their counter have stated that one Shri Arakhita Nayak was employed as a Driver and expired on 12.8.1988 and according to office record, he left behind his widow, Sundari Bewa, son, Shri Pabitra Nayak and three daughters. Respondents have further stated that it is not known whether the said Pabitra Gochhayat and Pabitra Nayak are one and the same person as there is no such name in the service record of the deceased employee as Pabitra Gochhayat being his son. Respondents have further stated that earlier the widow of the deceased employee made an application for compassionate appointment enclosing a certificate bearing the name of the petitioner as Pabitra Nayak. On verification it was found that the certificate was not genuine and therefore, request for compassionate appointment was considered and the same was rejected. Respondents have further stated that the School has issued the original Transfer Certificate and the date of issue of this Transfer Certificate as also the certificate submitted by the widow is same, but the only difference is that surname of the applicant has been shown as Nayak

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in the Transfer Certificate submitted by the widow whereas in the Transfer Certificate sent by the School, which is the original and genuine one, it is shown as Pabitra Gochhayat. Respondents have further stated in para 12 of their counter that the "conduct of the applicant is thus suspicious and as such the applicant has to prove beyond all reasonable doubt that the Pabitra Nayak and Pabitra Gochhayat are one and same person after which the case only can be considered"(emphasis supplied). On the above grounds the respondents have opposed the prayer of the applicant.

4. Applicant has filed a rejoinder and respondents have also filed a reply on rejoinder which have been taken note of.

5. We have heard Shri K.C.Kanungo, learned counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents and also perused the records. Learned counsel for the applicant, in course of his submission filed a copy of R.O.R.belonging to widow in Village Kakatpur where the widow Sundari Bewa has been mentioned as Sundari Gochhayat. It is submitted by the learned counsel for the petitioner that as both the surnames Nayak and Gochhayat have been used by the father of the applicant and by the applicant himself, his candidature should not be rejected only on the ground of error in the Transfer Certificate where the applicant has been wrongly shown as Pabitra Nayak. We have considered the submissions of learned counsel for both sides and given our anxious consideration to the arguments advanced in the Bar. We note that the Transfer Certificate which on enquiry has

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been found to be not genuine was sent by the widow and not by the applicant himself. It may be, that the widow, out of her anxiety in order to secure an employment for her son had sent a wrong certificate which was not genuine. But it is for the respondents to make an enquiry and ascertain if the applicant is actually naturally born son of the deceased Driver Arakhita Nayak and whether he has got the requisite educational qualification as per the Transfer Certificate and whether the person, who has been described in the T.C. as Pabitra Gochhayat is really the natural born son of Arakhita Nayak, the deceased Driver. Respondents in their counter have indicated that the applicant has to prove this and only then his case for compassionate appointment would be considered. In view of this, this Original Application is disposed of by issuing a direction to Respondents 3 and 4 to consider the case of the applicant in the following manner.

Respondent No.4 should make such an enquiry as he may think proper for determining if the petitioner Pabitra Gochhayat is the natural born son of the deceased Driver, Arakhita Nayak. He should also determine by such an enquiry, as he may deem fit and proper whether the Transfer Certificate sent by the Headmaster of Kakatpur High School concerns the applicant Pabitra Gochhayat and only if the Res.4 is satisfied on these two points, then the case of the applicant for compassionate appointment should be considered in accordance with the rules.

The entire process shall be complied within a period of 120 days from the date of receipt of this order. *No costs. Jm.*

Patta, produced by the learned counsel for the applicant is returned to him.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
7.10.99