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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 471 OF 1996.

Cuttack this is the 5th of December, 1996.

KUMARI MAMATA PATRA

.....

APPLICANT

VRS.

UNION OF INDIA & OTHERS.

.....

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 *MO* Central Administrative Tribunal.

N. Sahu

(N. SAHU)
MEMBER (ADMINISTRATIVE)

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 471 OF 1996.

Cuttack, the day of December, 1996.

C O R A M:-

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

....

KUMARI MAMATA PATRA,
aged about 25 years,
Daughter of Radhashyam patra,
Vill./P.O. Baiganabadia,
PFS. Kuliana, Dist. Mayurbhanj.

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APPLICANT

BY LEGAL PRACTITIONER :- MR. K.K. JENA, Advocate.

-VRS.-

1) Union of India represented through
Postmaster General, Orissa, Bhubaneswar,
Dist. Khurda.

2) Superintendent of Post Offices,
Baripada, At/Po. Baripada,
Dist. Mayurbhanj.

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RESPONDENTS.

BY LEGAL PRACTITIONER :- MR. ASHOK MOHANTY, Senior Standing Counsel
(Central).

O R D E R

MR. N. SAHU, MEMBER (ADMINISTRATIVE):

In this Application filed on 5th August, 1996, the applicant has prayed for quashing the order under Annexure-3 by which the charge of EDBPM, Baiganabadia was directed to be made over to Supai Majhi. There is also an application dated 5.8.1996 for amendment of the Original Application which

has proposed a number of amendments to the main relief. The background material facts in the main Application and the reliefs claimed are inter connected and therefore, the amendment petition is admitted. The applicant is an unmarried Graduate from Utkal University and has a history of removal of uterus on medical advice. The BPM, Baiganabadia, Smt. Tarulata Patra the applicant's mother, proceeded on leave on 13.5.1995 and subsequently died on 30.5.1995. The applicant was provisionally appointed on 6.11.1995 in her place. She applied for compassionate appointment on 5.7.1995. The villagers of Baiganabadia protested against her appointment on the ground of her affluence. The provisional appointment was, therefore, terminated and the post was managed by a departmental official, the Overseer Mails attached to the A.S.P.O. in charge, North Sub-Division, Baripada with effect from 21.8.1995. The papers for appointment on compassionate grounds having been processed were placed before the Circle Relaxation Committee which did not consider the applicant's to be a fit case. Thereafter, 40 candidates were sponsored by the District Employment Officer, Baripada and the applicant was not included in the list. It is mentioned in the counter that the process of selection of BPM, Baiganabadia has been stayed as per the direction dated 24.7.1996 of the C.A.T. in O.A.No. 439/96.

2. The reason for rejection of the applicant's candidature for compassionate appointment is that the husband of the deceased BPM Tarulata Patra was a retired School Teacher. Her two sons were

employed and her two daughters were married. It is urged at the time of hearing by the learned Standing Counsel that the applicant did not submit any affidavit regarding her separation from brothers nor availed to produce any deed of property settlement, ^{but} the brothers have filed an affidavit regarding separation, ~~but~~ the applicant submitted an income certificate for Rs. 4000/- towards annual income from agricultural land.

3. The claim of Shri K.K. Jena appearing for the applicant is that the CRC did not consider her pitiable condition as a suffering young lady permanently condemned to an unmarried life and unable to maintain herself with the scanty income from 0.26 decimal of landed property. Shri Jena reiterated that the brothers of the applicant separated themselves from the father and the father of the applicant is living separately. It is the contention of Shri Jena that the aforesaid facts have not ^{been} taken into consideration by the CRC and a decision was taken without a proper inquiry. The finding of the CRC suffers from non-application of mind and is also based on extraneous consideration of material facts. Enclosed to this petition a copy of the partition deed dated 3.7.1995 between Shri Radhashyam Patra and Miss. Mamata Patra, father and daughter was filed.

4. I have carefully considered the submissions of the rival counsels. In para-11, page-7 of the application it is stated that 'a valuable land worth over Rs. 20,000/- is recorded in the name of the applicant and if the Superintendent of Post Offices wanted either cash security or security in shape of landed property, the

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applicant was quite capable of furnishing such security to the tune of Rs. 20,000/- if not more'. The two complaints of the Villagers were to the effect that the entire family is living together. The finding of the CRC are not based on ipse dixit but such findings are based on inquiry reports about the financial status of the applicant. The deceased mother was a school teacher. The applicant's two brothers are employed. All the retirement benefits were paid to the applicant's father. The separation of father and an unmarried daughter is incredible. The very fact that the applicant was ready to pay Rs. 20,000/- by way of Cash security or security by way of land proves that she is not penurious. She submitted her Income Certificate of Rs. 4,000/- towards annual income from agricultural land. Let us assume that the applicant had remained single and that her father and brothers were separated from her; even on that premise, her case for compassionate appointment does not gain any strength. A compassionate appointment is given only to enable the appointee to render means of assistance to the bereaved members of the family who do not have any other source of Income. If as in this case all other members are separated and they have their own sources of income, there could be no case at all for compassionate appointment to the applicant. In cases of rehabilitation assistance an undertaking is usually obtained from the candidate that he or she, if appointed would stay with the family members and render financial assistance to enable them to make both ends meet. If separation of all the members as claimed in the amendment petition is true, then there is no case at all for compassionate appointment.

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The reason is that an appointment under compassionate ground is a departure from the stricts canons of selection by competitive recruitment to all public posts. This departure is approved for the only reason that the family is indigent and needs protection in lieu of the long services of one of the members of the family to the Government. Thus, if there is no family that remains for assistance, there is no case for compassionate appointment at all.

5. The findings of a body like CRC can not be easily brushed aside on mere claims of partiality or nonapplication of mind. The CRC normally goes by reports from field offices and after carefully processing the papers and records they come to a conclusion. It is not necessary that the applicant should be informed about any inquiry that is going to take place. There is no question of hearing the applicant before rejecting her claim for compassionate appointment. The period of services ^{rendered} for a month or two does not bestow on her any claim for preference. She is free to compete with others in any open vacancy. She being a graduate should look for other jobs. There is no merit in this application and it is accordingly dismissed. No costs.

N. Sahu
(N. SAHU) 5/12/96
MEMBER (ADMINISTRATIVE).

BKSahoo.