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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 754 OF 1996
Cuttack, this the 30th day of May, 1997

UMESH MOHARANA

...

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 NO. Central Administrative Tribunal or not?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 30.5.97

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.754 OF 1996
Cuttack, this the 30th day of May, 1997

C O R A M:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

...

Umesh Moharana,
son of late Bhagirathi Moharana,
Village-Shankarpur, P.O-Shankarpur,
Via-Charbatia, PS-Chowdwar,
District-Cuttack

....

Applicant

-versus-

1. Union of India,
represented through Cabinet Secretary,
Cabinet Secretariat,
East Block-V, R.K.Puram,
Government of India, New Delhi-110 066
2. Principal Director,
Aviation Research Centre,
Director General Security,
Cabinet Secretariat, East Block-V,
R.K.Puram, New Delhi-110 066.
3. Director, Aviation Research Centre,
Headquarters, East Block-V, R.K.Puram,
New Delhi-110 066.
4. Deputy Director (Administration),
Aviation Research Centre,
Charbatia, Chowdwar, Cuttack
5. Assistant Director (Administration),
Aviation Research Centre,
Charbatia, Choudwar, Cuttack

.... Respondents

Advocates for applicant - M/s Chittaranjan Misra,
Debadutta Behura,
G.B.Misra, U.C.Behera &
T.K.Mandal.

Advocate for respondents - Mr. Ashok Mohanty, Sr. S.C.

Somnath Som
30.5.97

ORDER

NATH SOM, VICE-CHAIRMAN In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the respondents to provide compassionate appointment to him in any suitable post. He has also asked for quashing the order dated 4.6.1996 (Annexure-12) in which respondent no.5 has intimated his mother that the applicant has not been selected as Aircraft Assistant by the Selection Board.

2. The facts of this case are that the father of the applicant was working as a permanent employee under Aviation Research Centre, Choudwar. After serving for twelve years and eight months, he passed away on 24.12.1983, while working as a Peon, leaving behind his widow, two sons and two daughters, of which the present applicant, who was eleven years of age at that time, is the eldest. According to the applicant, after his father's death, his mother had applied for a job on compassionate ground, but she was told that compassionate appointment would be provided to her son on attaining majority. Accordingly, the applicant after attaining majority in 1990 applied for a job on compassionate ground. His mother also made an application on his behalf on 20.6.1990 (Annexure-2). Initially, the departmental authorities were considering the applicant's appointment to the post of Dhobi at Aviation Research Centre, Doomdooma, Assam, but this appointment did not come through. Subsequently, in response to a notice affixed to the Notice Board in the

*Somnath Som
30.5.97*

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office of respondent for recruitment to a post of Cook, the petitioner made an application. He was interviewed but was not found suitable. He was also considered for the post of Aircraft Assistant in 1996, but was not selected by the Selection Board. In course of argument, the learned lawyer for the applicant indicated that on 28.4.1997 respondent no.5 has sent another notice to the applicant calling him for interview for the post of M.T.Cleaner. The applicant submits that even though his case is being repeatedly considered, he is not being given any appointment and as such, he has come with the above prayers.

3. The respondents in their counter have pointed out that after death of the applicant's father, his mother, i.e., the widow of the deceased Government servant was offered the post of Sweepers, but she refused to join that post as she is carpenter by caste and not a sweeper. It has been submitted by the respondents in the counter that in view of refusal of the mother, the claim for compassionate appointment, if any, cannot be agitated by the applicant now.

4. I have heard the learned lawyer for the applicant and the learned Senior Standing Counsel appearing on behalf of the respondents. It has been submitted by the learned Senior Standing Counsel that in this case the death occurred in 1983, i.e., 14 years ago and according to several pronouncements of the Hon'ble Supreme Court, prayer for compassionate appointment long after the death of the Government servant should not be considered, because the very fact that the family of the deceased Government servant has somehow managed all these years would give rise to the

*Jonnath Jom
30.5.97*

presumption that it has some dependable means of livelihood.

It has also been urged that the applicant has come up for compassionate appointment in his favour only in 1990, i.e., about seven years after the death of his father. On this ground also, the respondents have contested the prayer of the applicant.

I have considered the submissions of the learned Senior Standing Counsel carefully. It may be true that the applicant's mother did not take up the job of Sweepers immediately after the death of her husband, the father of the present applicant. But that to my mind should not stand ^{as} a bar against considering the case of the applicant for compassionate appointment. As a matter of fact, the respondents themselves have considered the case of the applicant repeatedly for the post of Dhobi at Doomdooma, Aircraft Assistant and Cook at Charbatia. Therefore, it cannot be said by them that the claim of the applicant for consideration for compassionate appointment has been extinguished by his mother's refusal to accept the job of Sweepers. As regards the question of long delay, at the time of death of the Government servant, the applicant, according to his statement, was aged 11 years and immediately after attainment of majority in 1990, he has applied and his mother has also applied for giving compassionate appointment to him. There are departmental instructions that where the widow is not in a position to accept compassionate appointment, then on attaining majority of son or daughter of the deceased Government employee, his or her case should be considered. Therefore, the fact that the applicant has come up with a prayer for compassionate appointment in 1990, i.e., after a delay of seven years, should not go against him.

5. In consideration of the above, it is ordered that

*Somnath J.M.
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the respondents should consider the applicant's case for compassionate appointment in a vacancy of Group 'D' post subject to his suitability and if found suitable, he should be offered the appointment. I am distressed to note that in spite of repeated consideration of his case for appointment as Cook and Aircraft Assistant, he has not been selected. But for appointment as a Cook, one has to have specialised knowledge and in case of Aircraft Assistant, the Selection Board has not selected him. As such, no fault can be found with the departmental authorities and the **prayer** of the applicant for quashing Annexure-12 must be and is rejected. I hope that the respondents will sympathetically consider the case of the applicant and find a job for which the educational qualification and abilities such as these are of the applicant would be found suitable. It is ordered that the above consideration should be done by the respondents as expeditiously as possible. It is not possible for me to fix a time limit for this in the absence of any averment as to availability of a vacancy.

6. In the result, the application is partly allowed in terms of the above observation. No order as to costs.

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(SOMNATH SOM)
VICE-CHAIRMAN
30.5.97