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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 876 OF 1996

Cuttack, this the 16th day of November, 2001

Sri Suresh Ch. Nayak

Applicant

Vrs.

Union of India and 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 Central Administrative Tribunal or not? No.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
16.11.2001

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ORIGINAL APPLICATION NO. 876 OF 1996
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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

Sri Suresh Ch. Nayak, son of late Sri Gouranga Ch. Nayak,
Vill/PO-Pattanaikia, Dist. Puri... Applicant

Advocates for applicant - M/s A. Kanungo
S. R. Mishra

Vrs.

1. Union of India, represented through Chief Post Master General, Department of Post, W.B. Circle, Calcutta-12.
2. Senior Superintendent of Post Offices, Southern Calcutta Division, Calcutta-700 029.
3. Senior Superintendent of Post Offices, Puri Division, Puri-752 001.... Respondents

Advocates for respondents - Mr. A. K. Bose
Sr. CGSC for R-3
&
Mr. U. B. Mohapatra
ACGSC for R- 1 & 2

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

J. Som - In this O.A. the petitioner has prayed for a direction to the respondents to give appointment to the applicant in any post under rehabilitation assistance scheme. The respondents have filed counters opposing the prayer of the applicant. No rejoinder has been filed. For the purpose of considering the petition it is not necessary to record all the averments made by the parties in their pleadings.

2. The admitted position is that the applicant's father Gouranga Charan Nayak was working as Group-D in New Alipore B.O., Calcutta-53 and he died in

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harness on 25.2.1994. It is also the admitted position that the deceased postal employee had a son and a daughter, Ramesh Nayak and Manorama Nayak through his first wife. The applicant, his brother and one unmarried sister were the children of the second wife who was the surviving widow. After the death of the postal employee, the case of the applicant was taken up for compassionate appointment. Respondent no.3 in a separate counter has indicated that the matter was enquired into and a report was sent to respondent no.2. A copy of this report is at Annexure-R/1 enclosed to the counter of respondent no.3. The Circle Relaxation Committee rejected the case of the applicant for compassionate appointment on the ground that two of the three sons are already employed. The applicant has stated in his petition that this is not correct.

3. I have heard Shri S.R.Mishra, the learned counsel for the petitioner, Shri A.K.Bose, the learned Senior Standing Counsel appearing for respondent no.3, and Sri U.B.Mohapatra, the learned Additional Standing Counsel for respondent nos. 1 and 2 and have also perused the record.

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4. From the above pleadings of the parties, it is clear that the applicant's father died in harness on 25.9.1994. It is also the admitted position that through his first wife the deceased employee had one son and one daughter. The son is working as a Bank Officer in Syndicate Bank. In the local enquiry report which is at Annexure-R/1 to the counter of respondent no.3 it has been clearly mentioned that Ramesh Nayak, the employed son has been long separated from the

family. It is also mentioned in the report that the applicant, his brother and sister and the widow are unemployed and they have no landed property apart from a house with thatched roof. It is also the admitted position that the case of the applicant for compassionate appointment was rejected in order dated 27.3.1996 (Annexure-3) on the ground that two children of the Government servant are already employed. Respondent nos. 1 and 2 have also mentioned in their counter that there is nothing on record that the first son who is employed as Bank Officer is separated from the family. Both these contentions cannot be accepted. In the local enquiry report at Annexure-R/1 it has been clearly mentioned that Ramesh Nayak is long separated from the family and this is on record and the contention of respondent nos. 1 and 2 that there is nothing on record that the first son Ramesh has been separated from the family is therefore not borne out by the local enquiry report.

J. Sen

5. The second ground on which the prayer for compassionate appointment of the applicant has been rejected is that two sons ^{children} ~~are~~ already employed. The applicant has contested this. Respondents in their counter have stated that one son is employed in a Cinema Hall. The learned counsel for the applicant has stated that the petitioner for some time had worked as Daily Mazdoor in a Cinema Hall. The local enquiry report specifically mentions that the applicant, his brother and sister and the widow are all unemployed. In view of this, the contention of respondent nos. 1 and 2 that

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another son is also employed cannot be accepted. As the prayer for compassionate appointment has been rejected on grounds which are not borne out by the record, I set aside the order dated 27.3.1996 (Annexure-3) and direct respondent nos. 1 and 2 to consider the case of the applicant for compassionate appointment afresh and strictly in accordance with rules. This should be done within a period of four months from the date of receipt of copy of this order and the result thereof communicated to the applicant within 20 days thereafter.

6. With the above observation and direction, the O.A. is allowed. No costs.

Somnath Som
(SOMNATH SOM)
16/11/2001
VICE-CHAIRMAN

AN/PS