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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 930 OF 1996

Cuttack, this the 3rd day of December, 1997

Joshnarani Mishra 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
3.12.97

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.930 OF 1996

Cuttack, this the 3rd day of December, 1997

CORAM:

HONOURABLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Joshnarni Mishra,
aged 36 years, wife of Prakash Chandra Mishra,
Sepoy, Central Excise & Customs,
15/1 Strand Road, Calcutta-2, West Bengal,
C/o Pradeep Kumar Mohapatra, Advocate,
Orissa High Court, Cuttack

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Applicant

Vrs.

1. Union of India, represented through
its Secretary, Central Excise & Custom,
New Delhi.

2. The Commissioner,
Central Excise & Customs,
15/1, Strand Road, Calcutta-1,
West Bengal.

3. V.K.Chaturvedi,
Dy.Commissioner (Per & Vig.),
Central Excise, Calcutta-1.

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Respondents.

Advocate for the applicant -

Mr.Pradeep Kr.Mohapatra

Advocates for the respondents -

M/s B.N.Mohanty &
S.C.Samantray.

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 12.7.1996 (Annexure-4) rejecting her prayer for compassionate appointment in place of her husband and also for a direction to

W.M.J.M.
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the respondents to give her compassionate appointment in place of her husband.

2. Husband of the applicant was a Sepoy, Central Excise & Custom, 15/1, Strand Road, Calcutta, West Bengal. He worked as Sepoy from 1974 to 1976. In 1976 he came to his village and became mad. He was treated in M.K.C.G.Medical College & Hospital, Berhampur and S.C.B.Medical College & Hospital, Cuttack, but there was no improvement in his condition. In the meantime, there was flood in the village of the applicant, in which service documents of her husband were washed away. From 1976 to 1995 the applicant's husband has been under treatment in Psychiatry Department of M.K.C.G.Medical College & Hospital. In the process, the applicant's financial condition became highly indigent and she applied for rehabilitation assistance under the respondents. The respondents in the impugned order at Annexure-4 informed the applicant that her request for rehabilitation assistance could not be granted as her case did not qualify within the existing rules. It was also intimated that from office records and Service Book of the applicant's husband, it appears that the applicant's husband has neither retired nor has he been dismissed from service. Rather he is on unauthorised leave and because of this, the applicant is disqualified for being considered for rehabilitation assistance. The applicant has submitted that as her husband has neither been dismissed nor retired from service, the Department should provide medical assistance to him and in case, he is found incurable, then he may be retired and in his place, the applicant may be appointed by way of rehabilitation assistance.

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3. Respondents have filed a counter in which they have stated that compassionate appointment can be given only in case of death in harness, retirement on medical ground, and death during period of extension in service. As the applicant's case does not come within any of these, the respondents have opposed the prayer of the applicant.

4. I have heard the learned lawyer for the applicant and the learned Additional Standing Counsel appearing on behalf of the respondents and have also perused the records.

5. From Annexure-4 to the application, which is a letter issued by the office of Commissioner, Central Excise, Calcutta, it is clear that the applicant's husband has been neither retired nor has he been dismissed from service. Technically the applicant's husband is still on the rolls of the respondents. Therefore, the conclusion is inescapable that the Department has the responsibility to provide medical assistance to the applicant's husband. It is also to be noted that the applicant has tried to get her husband treated in Psychiatry Department of M.K.C.G. Medical College & Hospital, Berhampur, from 1976 to 1995, but without any improvement in his condition. In consideration of the above facts, I think that ends of justice would be met if the respondents are directed to get an enquiry conducted into the condition of the applicant's husband and in case, he is found incurable, then he should be retired. He would be entitled to some small amount of gratuity for the two years of service he has rendered. This will have to be paid to him or his guardian after his retirement. After this, the respondents should consider

*Onwards from
3.12.97*

the case of the applicant for appointment by way of rehabilitation assistance and pass appropriate orders. If necessary, relaxation of age limit may also be considered by the respondents. This process should be completed within four months from the date of receipt of copy of this order.

6. I am guided in passing the above order by the fact that here the employee has become mad and his wife had not been in a position to approach the authorities for medical assistance which has not been provided to him.

7. In the result, therefore, the application is allowed in terms of the observation and direction contained in paragraph 5 of this order. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
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