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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 121 OF 1998
Cuttack this the 2nd day of November, 1998

December

S. J. Som

Sudhakar Sehy

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 Tribunals or not ? No

Somnath Som,
(SOMNATH SOM)
VICE-CHAIRMAN
12.12.98

2.12.98
(G. NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.121 OF 1998
Cuttack this the 2nd day of November, 1998
December
Som

CORAM:

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

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Sudhakar Sethy
S/o.Nisakar Sethy
of Vill:Sanaraipada,
PO:Kotapur, Dist:Jajpur

...

Applicant

By the Advocates : M/s.A.Kanungo
A.K.Mishri (3)

-Versus-

1. Union of India
represented through its Secretary,
Department of Posts of Telegraphs,
New Delhi
2. Chief Post Master General
Orissa Circle,
Bhubaneswar, Dist: Khurda
3. Superintendent of Post Offices,
Cuttack North Division
At/Po/Dist: Cuttack

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Respondents

By the Advocates : Mr.U.B.Mohapatra,
Addl.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHA, MEMBER(J) : Applicant's father Nisakar Sethy, while serving as Extra Departmental Delivery Agent (E.D.D.A.) of Kotapur was allowed to retire on the ground invalidation on 10.7.1997. By then he was 58 years old and the age of superannuation is 65 years. The annual income of the family being Rs.2000/- only the applicant approached the department for compassionate appointment. His application was rejected in letter dated 26.11.1997(Annexure-3) on the ground that the departmental rules do not contemplate providing appointments on compassionate ground in case of E.D. officials retiring on the ground of invalidation. Hence this application for quashing the order contained in letter under Annexure-3 and for issue of direction to respondents go give the applicant appointment on compassionate ground; mainly on the ground that Annexure-4, department's letter dated 16.12.1991 indicates compassionate appointments can be made even in case of invalidated retirements.

2. The stand of the department is that there is no rule or instructions for providing appointment on compassionate ground in case of invalidated retirement. Compassionate appointment is given only in case of employees, who die while in service leaving the family in indigent circumstance and such employment to the dependants of the deceased can be given only in very hard and exceptional cases. This is clear from circular/letter No.43-II/79-Pen dated 4.8.1980 of the D.G.(P&T)

(Annexure-R/2). Further the D.G.'s letter No.43-85 dated 10.12.1986 made many clarifications and one of the clarifications that no dependant of an E.D.Agent, who retires permanently on medical ground can be considered for appointment on compassionate ground (also Annexure-R/3). Even the latest letter of the Directorate dated 2.2.1994 on this question no where laysdowns that dependant of an E.D.Agent retired on medical grounds can be considered for compassionate appointment.

3. Hence the only point for consideration is whether a dependant of an E.D.Agent retired on medical grounds can be considered for compassionate appointment. We have gone through the circulars under Annexures R/3 and R/4 of the respondents-department. D.G.'s letter dated 10.12.1986 specifically rules out compassionate appointment for the dependant of E.D.Agent retiring prematurely on medical ground. It is true that the applicant places reliance on Annexure-4 which is a typed paper attested by the Advocate as a true copy. It is not clear which authority had issued this instruction dated 16.12.1991. Even there is no specific direction that compassionate appointment can be given in case of retirements of E.D.Agents on medical grounds. This typed copy reading as a whole indicates about compassionate appointment in case of death. This appears to be an instruction for early finalisation of cases of compassionate appointments. The learned counsel for the applicant brought to our notice the very first sentence where the words "compassionate appointment to one of the

eligible dependants/near relations of the deceased/invalidated E.D. Agents" and argued that in view of the word 'invalidated' occurring, it would imply that compassionate appointment can also be considered in case of retirement on invalidation ground. We do not see any force in this contention, because it is not clear which authority had issued this letter and whether that authority is superior to D.G., who in letter dated 10.12.1986 specifically ruled out such appointments in case of retirements on invalidation ground. Further the letter reading as a whole would indicate that the compassionate appointments are to be made only in case of death of E.D. Agents while in service.

4. In the result we do not see any merit in this application which is accordingly dismissed, but without any order as to costs.

Somnath Som
 (SOMNATH SOM)
 2.12.98
 VICE-CHAIRMAN

2.12.98
 (G.NARASIMHAM)
 MEMBER (JUDICIAL)

B.K.SAHOO