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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.136 OF 1998
Cuttack, this the 21st day of July, 1998

Subash Ch. Dehury Applicant

Vrs.

Union of India and another 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.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 21.7.98

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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CORAM:

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

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Subash Ch.Dehury,
s/o late Raghab Dehur,
Ex-E.D.D.A-E.D.M.C.,
Kathakata B.O.,
Anandapur, Dist.Keonjhar Applicant

By the Advocate - Mr.D.P.Dhalsamant

Vrs.

1. Union of India,
represented through the Chief Post
Master General,
Orissa Circle,
Bhubaneswar-751 001.
2. Superintendent of Post Offices,
Keonjhar Division,
Keonjhar-758 Respondents

By the Advocate - Mr.B.K.Nayak
Addl.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

S. Som.

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed that the order dated 15.1.1998 at Annexure-1 rejecting his prayer for compassionate appointment should be quashed and the respondents be directed to consider the case of the applicant for compassionate appointment.

2. The facts of this case, according to the applicant, are that his father, while working as E.D.D.A.-cum-E.D.M.C. under the respondents, passed away on 28.1.1997 leaving behind his widow, three sons and one minor daughter in the most indigent condition. The applicant made a representation to the departmental authorities to give him compassionate appointment. His prayer was rejected in the impugned order dated 15.1.1998 at Annexure-1 on the ground that the applicant did not have the minimum educational qualification for the post of E.D.D.A-cum-E.D.M.C. The applicant further states that the selection process for the post of E.D.D.A-cum-E.D.M.C., which fell vacant due to the death of the applicant's father, has been initiated and the last date for submission of applications by the candidates, whose names have been sponsored by the Employment Exchange, was fixed to 21.3.1998. As the applicant, according to him, is entitled to consideration for compassionate appointment, in the present application he has come up with the prayers referred to earlier.

3. Respondents in their counter have submitted that the applicant's father Raghab Dehury passed away on 28.1.1997 while working as E.D.D.A-cum-E.D.M.C. in Kathakata Branch Post Office. In order to give compassionate appointment to any of the dependants of the deceased E.D. employee, the required documents were collected and the widow of the deceased prayed for consideration of the case of the applicant, her son, for compassionate appointment. The case of the applicant was put up before the Circle

Relaxation Committee and it was seen that educational qualification of the applicant is Class III whereas for the post of E.D.D.A. the qualification is Class VIII. On this ground, his application has been rejected in the order at Annexure-1. The respondents have stated that according to the departmental instruction, copy of which is at Annexure-R/2, even for compassionate appointment the children of the deceased E.D. employee must have the minimum educational qualification and therefore, the applicant's candidature has been rightly rejected. The respondents have further stated that after rejection of the applicant's prayer, the Sub-Divisional Inspector(Postal), Anandapur Sub-Division, who is the appointing authority, has been permitted to fill up the post in accordance with the departmental rules and instructions. In the context of the above facts, the respondents have opposed the prayer of the petitioner.

4. We have heard Shri D.P.Dhalsamant, the learned counsel for the petitioner, and Shri B.K.Nayak, the learned Additional Standing Counsel for the respondents, and have also perused the records.

5. It has been submitted by the learned lawyer for the petitioner that even in accordance with the circular at Annexure-R/2, relied upon by the respondents, compassionate appointment in relaxation of the minimum educational qualification is permissible and the circular has been wrongly interpreted by the respondents in denying the prayer of the applicant. It is also submitted that if the petitioner is appointed to the post of E.D.D.A. in relaxation of the minimum educational qualification requirement, he would

undertake to acquire the minimum qualification in a period of two years. Learned Additional Standing Counsel has submitted that the respondents have gone strictly by the instructions of Director General of Posts and according to these, the petitioner cannot be appointed in relaxation of requirement of minimum educational qualification. The relevant circular, relied upon by both sides, is Director General of Posts' letter dated 2.2.1994. We have gone through the circular very carefully. In this circular, in paragraph 3, queries made by field officers with regard to compassionate appointment have been clarified. The first point on which clarification has been sought and with which we are concerned in this case is dealt with in paragraph 2(1) of the letter. In this paragraph, it has been mentioned that the circular dated 30.6.1987 of the Ministry of Personnel, Public Grievances and Pension, which inter alia provides that where a widow of a deceased Government employee is appointed on compassionate grounds to Group D post, she will be exempted from the requirement of educational qualification, provided the duties of the post can be performed without having the educational qualification of middle standard prescribed in the recruitment rules for Group D post. In this context, clarification has been sought whether similar relaxation can also be given to dependants/near relatives of deceased E.D.Agents and whether the same would be applicable to all categories of E.D.Agents including E.D.B.P.M/E.D.S.P.M. The second part of the query does not concern us because in this case the post concerned is the post of E.D.D.A-cum-E.D.M.C. On this point, clarification has been given in paragraph 3(i)

of the circular and it has been mentioned that in such cases relaxation of educational qualification is permissible; but in conformity with the spirit of the orders of the Department of Personnel under reference the relaxation would be available only to the widow/widower of the deceased E.D.Agent and that too only for appointment against such category of E.D. posts for which the prescribed minimum educational qualification is that of Group-D, i.e., middle class pass. But the claimant widow/widower of the deceased E.D.Agent should, however, at least be a literate in cases where the minimum educational qualification is relaxed in her/his favour. From this it is clear that relaxation of educational qualification can be done only in case of appointment of the widow/widower and this facility prima facie is not available to the son of the deceased employee like the present applicant. The learned lawyer for the petitioner has laid much stress on Note No.(3) below this circular, in which it has been mentioned that the local authorities will encourage the dependants appointed as E.D.Agents in relaxation of the minimum educational qualification to attain the prescribed minimum educational qualification as is laid down for the post. This Note does not provide any support to the contention of the learned counsel for the petitioner that dependants of deceased E.D.employees other than widow/widower can be appointed in relaxation of educational qualification. Paragraph 3(i) of the circular specifically lays down that such relaxation of educational qualification can be made only in favour of the widow/widower subject to the conditions referred to earlier. We, therefore, hold

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that the respondents have strictly gone by the departmental instructions in rejecting the candidature of the applicant for compassionate appointment as he did not have the minimum educational qualification. In view of this, it is not necessary for us to consider the other submission made by the learned counsel for the petitioner that the applicant should be given compassionate appointment and allowed two years time to acquire the minimum educational qualification.

6. In the result, therefore, we hold that the application is without any merit and the same is rejected, but, under the circumstances, without any order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

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