

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 542 OF 1998.

Cuttack, this the 9th day of May, 2000.

SATYARANJAN SAMAL.

....

APPLICANT.

VRS.

UNION OF INDIA & ORS.

....

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 Sam*  
(SOMNATH SAM)  
VICE-CHAIRMAN  
15.2.2000

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 542 OF 1998.  
Cuttack, this the 9th day of May, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

....

SATYARANJAN SAMAL,  
Aged about 27 years,  
Son of Narayan Samal,  
at present working as Telegraphist,  
At:D. T.O, Keonjhar, Dist: Keonjhar. .... APPLICANT.

By legal practitioner: M/s. B. S. Tripathy, M. K. Rath, Advocate.

- Versus -

1. Union of India represented through its  
Director General Cum Secretary,  
Ministry of Communication,  
Sanchar Bhawan, New Delhi.
2. Chief General Manager,  
Telecommunications,  
Orissa Circle,  
At /PO: Bhubaneswar,  
Dist: Khurda.
3. Telecom District Manager,  
At/PO/Dist: Dhenkanal. .... RESPONDENTS.

By legal practitioner: Mr. S. B. Jena, Additional Standing Counsel.

ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the  
Administrative Tribunals Act, 1985, the applicant has prayed  
for a direction to the Respondents to give him appointment to  
the post of Junior Telecom Officer (J. T.O.) after quashing the  
order dated 14.8.1998 rejecting his representation.

2. Applicant's case is that he is an Arts graduate and  
was appointed as a Telegraphist by the Respondents which is  
a Class-III post similar to J. T.O. post. He was appointed

as Telegraphist under Superintendent of Telegraph Office, Sambalpur dated 8.2.1993, Annexure-1. After his appointment, he was also sent for training which he successfully completed. His case is that at the time of his appointment, certain posts of JTO were lying vacant. Even at present posts of JTO are lying vacant. It is stated that even though he has a brilliant career, the Respondents in a clandestine appointed him as Telegraphist. He has filed repeated representations to the authorities requesting to appointment him to the post of JTO but without any result. Thereafter, he approached the Tribunal in Original Application No. 232 of 1998 which was disposed of in order dated 1.5.1998 directing the applicant to file a representation and the Respondents in that O.A. to dispose of the representation. Accordingly, applicant filed a representation but his representation was rejected in order at Annexure-3. In the context of the above facts, the applicant has come up in this Original Application with the prayer referred to earlier.

3. Before considering the averments made by the Respondents in their counter, one fact has to be noted in this connection.

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I have indicated the averments made by the applicant in his Original Application. In the averments in paragraph-4 applicant has nowhere mentioned that he was appointed as a Telegraphist on compassionate ground. In para-5 of the O.A. it is stated that his father was an employee of the Telecom. Department who retired from service on invalidation ground and though under the Rules compassionate appointment should have been given to <sup>one of</sup> his family members, the same was not done. Applicant's mother threatened to commit suicide in front of the Office room of Res. No. 2 if compassionate appointment is

not given to the applicant. The matter came to the notice of the Superintendent of Police and Collector and ultimately, Res. No. 2 appointed the applicant in the post of Telegraphist. Respondents in their counter have opposed the prayer of the applicant. They have stated that in accordance with the direction of the Tribunal dated 1.5.1998 in Original Application No. 232/98, which is at Annexure-A/2 of the O.A., applicant's case for appointment as J.T.O. was considered and was rightly rejected in order at Annexure-A/3. They have stated that the applicant was issued with an order of appointment on compassionate ground as Telegraphist. He accepted the order of appointment and has been continuing as such from February, 1993. Respondents have also stated that the posts of Telegraphist and JTO are not similar. For the post of JTO there are separate recruitment rules. It is also stated that the post of J.T.O. requires a higher qualification like B.Sc, B.E and the scale is also higher i.e. Rs.6500-10,500/- whereas the Telegraphist scale of pay is Rs.3200-4900/- and the qualification for the post of Telegraphist is matriculation. Respondents have stated that at the time of appointment of the applicant, the applicant has passed plus two Science exams. Respondents have stated that in accordance with the circular dated 30th June, 1987 and 17-2-1988 a change of post after acceptance of a compassionate appointment is not permissible under any law. On the above grounds, the Respondents have opposed the prayer of applicant. *Therefore the matter is referred to the*

4. We have heard Mr. B. S. Tripathy, learned counsel for the Applicant and Mr. S. B. Jena, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

5. The admitted position is that the applicant was appointed on compassionate ground as Telegraphist in February, 1993. He has accepted the job of Telegraphist offered to him on compassionate ground and has joined in February, 1993. His case is that he has higher qualification and therefore, he should be appointed as J. T.O. Respondents have opposed the prayer on two grounds; firstly for the post of J. T.O' the educational requirement is B.Sc/B. E. whereas the applicant is an Arts graduate. Therefore, he does not have the qualification for the post of J. T.O. Moreover instructions relied upon by the Respondents which is enclosed as Annexure-R/1 and has been extracted from the Swamy's compilation, it is clearly mentioned under para-10 that when a person has accepted a compassionate appointment to a particular post, the set of circumstances which led to his initial appointment, should be deemed to have ceased to exist and thereafter the person who has accepted compassionate appointment in a particular post should strive in his career like his colleagues for future advancement and claims for appointment to higher post on consideration of compassion should invariably be rejected. It is also to be noted that compassionate appointment is done in relaxation of the normal rules of appointment to rehabilitate the indigent family members of the Government servant who has passed away on the hard days or retired on invalidation ground. Therefore, compassionate appointment is to be done strictly following the scheme of compassionate appointment and the scheme specifically provides that once a person has accepted the appointment of a particular job by way of compassionate appointment he can not claim any higher post. Moreover, the purpose of compassionate

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is to provide rehabilitation assistance to one of the family members and not for career advancement of the applicant.

6. In view of the discussions made above, I find no merit in this Original Application which is accordingly rejected. No costs.

*Somnath Som*  
(SOMNA TH SOM)  
VICE-CHAI RMAN

KNM/CM.