

Order dated 7.11.2001

Learned counsels have abstained from attending Court work protesting against law and order incident at Puri involving Lawyers and Constables. In view of this learned counsels of both sides are absent. Petitioner is also absent on call. This is a 1998 matter where pleadings have been completed long ago. Therefore, the matter cannot be adjourned indefinitely. Moreover, Hon'ble Supreme Court in the case Rayman Services (P) Ltd. vs. Subhash Kapoor reported in JT 2000 (Suppl.II) SC 564 have strongly deprecated the practice of Courts in adjourning cases due to strike by Lawyers. Their Lordships have observed in the concluding portion of their judgment as follows :

"The defaulting Court may also be contributory to the contempt of this Court".

From this it is clear that Hon'ble Supreme Court have held that by adjourning cases on the ground of strike by the Lawyers, the Court will be contributing to contempt of the Hon'ble Supreme Court. In view of this the matter cannot be adjourned. I have, therefore, gone through the pleadings of the parties.

In this Original Application the petitioner has prayed for a direction to respondents to give him appointment on compassionate ground. Respondents have filed their counter opposing the prayer of the applicant and the applicant has filed rejoinder.

The case of the petitioner is that his father Bhaskar Chandra Rout expired on 28.6.1996 while working as Driver (T 1-3) leaving behind the widow and four sons, of which the applicant was the youngest. He applied for compassionate appointment along with necessary documentation. His mother, the widow of the deceased employee also applied for giving compassionate appointment to the petitioner. But no decision was taken nor any order was communicated, to the applicant. In the context of the above the applicant has come up in this

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petition with the prayers referred to earlier.

Respondents in their counter have stated that at the time of death of applicant's father he had two years one month's and 28 days of service left and not 5/6 years of service as mentioned by the applicant. It is further stated that the widow of the deceased employee is getting pension of Rs.3837/- per month. Moreover by way of D.C.R.G., Group Insurance, leave salary etc. the widow of the deceased employee has been paid a sum of Rs.2,95,500/-. It is stated that the first three sons of the deceased employee were aged about 36, 32 and 26 on the date of death of their father and therefore, they cannot be said to be dependents on the widow. The applicant was also aged 24 years at the time of death of his father. He therefore, cannot be said to be dependent on the widow also. Thus the family of the deceased employee consists of widow only who is getting pension of Rs.3837/- per month. It is stated by the respondents that a large number of persons are waiting for compassionate appointments because of lack of vacancies. They have further stated that in view of the above facts the applicant is not entitled to be considered for compassionate appointment.

Applicant in his rejoinder has reiterated his averments as made in the O.A. and it is not necessary to record the same. As per the pleadings of the parties it appears the admitted position is that the applicant's father passed away in June, 1996 leaving behind four sons and the widow. All the four sons were major at the time of death of the deceased employee. The applicant has stated that none of the four sons were employed. But that cannot be a ground for giving compassionate appointment. As they were aged between 36 to 24 years at the time of death of their father, it cannot be said that they are dependents on their mother. On the contrary it should be other way round. At present the widow is getting pension of

J. P.M.

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Rs. 3837/- per month which must be deemed to be sufficient to maintain herself. The Hon'ble Supreme Court have held that compassionate appointment is not a vested right which can be exercised at any time nor the scheme of compassionate appointment is meant for providing jobs to unemployed children of the deceased employee. The scheme of compassionate appointment is meant for providing immediate sustenance to the family of the deceased employee. In the instant case the widow is in receipt of monthly pension. In view of this, I hold that the applicant is not entitled to compassionate appointment, but the fact that the widow has received other retiral benefits cannot be a ground to deny compassionate appointment to a member of the deceased family. This has been laid by the Hon'ble Supreme Court in a case which went to the Apex Court from Orissa. But as the widow in this case is in receipt of family pension, the major sons cannot be regarded as dependents on her. In this view of the matter I hold that the applicant is not entitled to any of the relief prayed for. The O.A. is held to be without any merit and the same is, therefore, rejected, but without any order as to costs.

*Domnath*  
VICE-CHAIRMAN  
7/11/2001