

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

For orders on Memo  
(For consideration  
of MA.103/2001 for  
accepting rejoinder  
dated - (Copy stored))

15/2/01  
Bench

## 16. ORDER DT. 16.2.2001.

Heard Mr. P. R. J. Dash, learned counsel for the petitioner and Mr. B. K. Nayak, learned Additional Standing Counsel for the Respondents on Miscellaneous Application No. 103/2001 praying for acceptance of the rejoinder. Learned ASC has no objection to this. In view of this the rejoinder is taken on record. The MA is allowed and is accordingly disposed of. Pleadings in this case are complete. Adjourned to 14.3.2001 for hearing and final disposal peremptorily at the stage of admission.

J. J. S.  
VICE-CHAIRMAN  
16/2

MEMBER (JUDIL.)

## 17. Order dated 14.3.2001

Heard Shri P. R. J. Dash, learned counsel for the applicant and Shri B. K. Nayak, learned Addl. Standing Counsel for the Respondents and also perused the records.

In this O.A. the petitioner has prayed for direction to Respondents to appoint him on compassionate ground commensurate with his educational qualification. Respondent Nos. 1 and 2, represented by Secretary, Ministry of Home Affairs and Deputy Secretary, Ministry of Home Affairs, Deptt. of Rehabilitation, respectively have filed their counter. Respondent Nos. 3 and 4 represented by Director General, Telecom, New Delhi and General Manager, Telecom, Orissa Circle, Bhubaneswar, respectively have filed their counter separately.

For the purpose of considering this application it is not necessary to go into too many facts of this case. The admitted position is that applicant's father Shri R. Venkata Rao, was working as U.D.C. in the erstwhile Dandakaranya Development Authority, when he died in harness on 29.1.1989, leaving behind his widow, three daughters and the present applicant, his son. The petitioner applied to the Dandakaranya Development Authority for

Ur.no 16 may be seen.

Per hearing in  
admission stage.  
Adj to 14.3.2001

13.3.2001

b2

J. J. S.

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his appointment on compassionate ground, but his case was not considered. He then approached this Tribunal ~~in~~ earlier in O.A.8/95, which was finally disposed of in order dated 19.5.1995 (Annexure-1). The Tribunal, in their above order directed that as and when applicant's turn would come, he should be accommodated and at any rate, the consideration of his case should be expedited. There was also direction that applicant's case for compassionate appointment should be considered as expeditiously as possible and in case by the time his turn comes, his case becomes age barred, respondents should relax the age and give him appointment on compassionate ground. Thereafter no compassionate appointment was provided to the applicant. Hence, this application.

Respondent Nos. 1 and 2, i.e., Ministry of Home Affairs represented by the Secretary and Deputy Secretary, Deptt. of Rehabilitation, under whom Dandakaranya Development Authority was functioning have stated in their counter that the Project functioning under them has in the meantime been wound up and ~~list~~ of such cases, in respect of which compassionate appointment <sup>has been</sup> ~~has~~ been prepared and the name of the petitioner is at the bottom of the ~~list~~ <sup>list</sup>. It is further admitted that the petitioner approached the Home Ministry by stating that vacancies are available in the Office of the District Telecom Engineer, Jeypore and prayed ~~for~~ that Home Ministry should forward his case to the Department of Telecommunications. Accordingly, Under Secretary, Ministry of Home Affairs (Rehabilitation Dvn.) in letter dated 2.3.1998 (Annexure-4) wrote to the Director General, Deptt. of Telecommunications for considering the case of the applicant for appointment on compassionate ground under the District Engineer, Telecom, Koraput. The D.G., Deptt. of Telecommunication was requested by the Home Ministry to issue necessary instructions to the District Engineer, Telecom.

Respondents Nos. 3 and 4 represented by Director General, Telecommunications and General Manager, Telecommunications, Orissa Circle, in

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their counter have stated that D.G. Telecom in letter dated 30.11.1998 informed the Rehabilitation Division of the Ministry of Home Affairs that for various reasons the case of the applicant could not be considered for compassionate appointment under the District Engineer, Telecom, Koraput. Res. 3 and 4 in their counter had not spelt out as to what those reasons are. It is submitted by Shri Nayak, learned A.S.C. that at that point of time no vacancy was available either in Group C or D cadre under District Engineer, Telecom, Koraput.

Applicant in his rejoinder has stated that subsequently departmental authorities in Telecommunications have issued Employment Notice on 1.1.2001 inviting applications for filling up of two Group D posts and has prayed for that his case should be considered for appointment on compassionate ground against one of those posts.

From the above recital of pleadings we find that after the death of the applicant's father, the concerned Ministry, i.e. Home Ministry (Rehabilitation Division) considered the case of the applicant and found him deserving for compassionate appointment and accordingly his name was kept in the list in which he occupied the lowest position.

The other aspect of the matter is that Dandakaranya Development Project having been wound up, the Home Ministry did not have any scope to provide compassionate appointment to the applicant. In such situation the concerned Ministry has to take up the matter with the other Ministry for providing compassionate appointment in deserving cases. Instructions relating to compassionate appointment specifically provide this. Accordingly the Home Ministry had written to Department of Telecommunication vide Annexure-4 for considering the case of the applicant for compassionate appointment under the District Engineer, Telecommunication, Koraput. At that point of time there being no vacancy, the case of the applicant could not be considered. But, apparently vacancy has now been notified in respect of Group D posts. ~~in~~

In view of the above and in view of the recommendation of the Ministry of Home Affairs (Rehabilitation Division) we do

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CA. 149/99

we dispose of this Original Application with a direction to respondent Nos. 3 and 4 that in case District Engineer, Telecom, Koraput is going to fillup two Group D posts in pursuance of Employment Notice dated 1.1.2001, then, at the time of selection the case of the applicant should also be considered for giving him appointment on compassionate ground.

With the above directions and observations the Original Application is disposed of, but without any order as to costs.

MEMBER (JUDICIAL)

*Dharmendra*  
VICE-CHAIRMAN  
14.3.2001

free copies of  
Final order  
dt. 14.3.2001  
issued to counsels  
for both sides.

*Phy*  
S.C(J)

*22/3/01*