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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 506 OF 1999
Cuttack this the 12th day of January/2001

Smt.Lata Sahu

...

Applicant(s)

-VERSUS-

Union of India & Others ...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Sahu
(SOMNATH SOM)
VICE-CHAIRMAN

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL) 12.1.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 506 OF 1999
Cuttack this the 12th day of January/2001

CORAM:

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

Smt.Lata Sahu aged about 31 years,
W/o. Late Pankaj Sahu,
Vill-Chhatragarh, PS:Balugaon,
Dist - Khurda

...

By the Advocates

Applicant

M/s.Manoj Mishra
Basudev Mishra
D.K.Patnaik
P.K.Mohanty
B.K.Mishra

-Vs.-

1. Union of India represented through its Engineer-in-Chief (Branch), Army Head Quarter, Kashmir House, New Delhi
2. Chief Engineer,, Southern Command, Pune
3. Chief Engineer, Navy, Station Road, Vishakhapatnam, Andhra Pradesh
4. Command Works Engineer (P), I.R.S.D.Area, Vishakhapatnam, PO: Kancharpalan, Andhra Pradesh

...

By the Advocates

Respondents

Mr.A.K. Bose,
Sr.Standing Counsel
(Central)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): This Original Application stands posted to this day for hearing and final disposal at the stage of admission. Advocates of both sides absent. In fact Advocates have been abstaining from attending this Tribunal and other Courts since 7.12.2000 protesting imposition of Professional Tax by the State Government. Earlier in anticipation that the boycott call given by the Advocates would be called off soon this Bench adjourned hearing of cases in the absence of Advocates. After a vew days when parties themselves

appeared in person and submitted for early disposal of their cases, those cases were heard and disposed of. Already this case has been twice adjourned because of the absence of the Advocates. Since the boycott call has become indefinite and there is no hope of the Advocates resuming the Court work in near future, it is not possible for us to adjourn the case. This apart the Apex Court in Raymon Services (P) Ltd. Vs. Subhash Kapoor reported in 2000 AIR SCW 4093 strongly deprecated the practice of Courts adjourning hearing of cases whenever the Advocates abstained from attending Courts on some plea or the other. Even the Apex Court went to the extent of observing that under such circumstance the defaulting Court may also be contributory to the contempt of the Apex Court. Hence this case cannot be adjourned any further simply because of abstention by the Advocates from attending Court work.

Even the parties are also absent and there is no prayer for adjournment. We have, therefore, perused the records.

2. In this application praying for compassionate appointment of the applicant on the ground of death of her husband while in service, the Department in their counter nowhere mentioned that applicant would not be eligible for compassionate appointment. On the other hand in Para-2 of their counter it was clearly averred that when the applicant requested for compassionate appointment the same was forwarded to the higher authorities ^{at Serial No. 77} and her name was kept in the waiting list for appointment as and when LRs are released by Engineering-in-Chief/Southern Commands and that the application of the applicant was disposed off accordingly keeping her name in the waiting list at Sl.No.77. Further, their case is that there is no provision for immediate

appointment ^{on} out of turn basis and the applicant has to wait till her own turn comes.

3. Thus there is no dispute that the applicant is eligible for compassionate appointment. At the same time she cannot be offered any appointment unless her turn in the waiting list at Sl. No.77 comes, which may mean, waiting for several years, if not till the age of her superannuation. The Apex Court now and then in a catena of decisions have been observing that the object of providing compassionate appointment is to mitigate the hardships of the family due to sudden death of the sole bread earner and therefore, the family should be provided immediate relief of employment vide decisions as under :

- i) Susama Gossain's case in AIR 1989 SC 1976
- ii) Umesh Nagpal's case in 1994 (4) SCC 138 and
- iii) Dhallaram's case in 1989 SC 56

Maintenance of waiting list for providing compassionate appointment is against the spirit of these decisions of the Apex Court and this should not be encouraged. In O.A.697/98 disposed of on 7.7.2000 (Laxminarayan Behera vs. Union of India) we had the occasion to follow this observation of the Apex Court by ^{even} holding that there can be no waiting list for absorbing persons eligible for compassionate appointment. The same view was reflected in the decision by the Principal Bench of C.A.T in O.A.1962/97 decided on 2.6.1998 (Lilabati vs. U.O.I)

4. We are, therefore, not inclined to agree with the averment made in the counter that the applicant would be provided appointment only as and when her turn comes. The applicant, as per her certificate under Annexure-2 dated 23.11.1997 is aged about 30 years having four children including two minor daughters and also mother-in-law aged 60 years. This

has not been denied by the departmental respondents in their counter. Hence the burden on the applicant for maintenance of four children and mother-in-law is very heavy.

5. We therefore, direct the respondents to provide employment to the applicant on compassionate grounds commensurate with her qualification against any available vacancy or next available vacancy. Application is accordingly allowed. No costs.

Registry to send copies of this order forthwith.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

G. Narasimham
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//