

Order dated 23.4.2001

for Admissions
B 28/4/01

Branch

7 CA. 545/99

Heard Ms.R.Nayak, learned counsel for the petitioner and Shri S.Bhera, learned Addl.Standing Counsel and also perused the records. Private Respondent Nos. 5 and 6 are the eldest son-in-law and eldest daughter of the applicant. They have filed counter after serving copy on the learned Addl.Standing Counsel, but they have not appeared through any counsel. Private Res. 5 and 6 are also not present when called.

In this Original Application the petitioner has prayed for quashing the orders at Annexures-A/4, A/5 and A/7, rejecting his prayer for compassionate appointment to be given to his eldest daughter and son in law. His second prayer is for direction to Respondents to provide appointment on compassionate ground either to applicant's elder daughter, Kanchanabala Sahoo (Res.6) or to Ramachandra Prusty, his elder son in law. The Departmental respondents have filed their counter opposing the prayer of the applicant. Applicant has not filed any rejoinder.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that applicant was working as Overseer Mail. In order dated 13.3.1990 at Annexure-3 to the O.A. he was retired from Govt.service on invalidation w.e.f. 19.1.1990 on being declared completely and permanently incapacitated for further service. The applicant has stated that he would have normally retired on 31.1.1993 and thus he lost more than three years of service. On being retired on invalidation ground he represented to the Department for giving compassionate appointment either to his elder son in law and/or daughter in law and this was rejected in various orders of the Department which he has impugned. From the averments made by the applicant himself in his petition I find that at the time of his retirement on invalidation applicant's family consisted of only his wife. He had two daughters

his elder son in law

J. J. J. J.

and both were given marriage at the time of retirement of the applicant. The second daughter Manjulata Sahoo has filed an affidavit enclosed to the amended O.A. stating that she/her husband has no objection if the compassionate appointment is ~~be~~ provided to the elder son in law or the elder daughter of the applicant. From this affidavit itself it is clear that younger daughter and younger son in law are ^{not} ^{the} family members of the ^{^ J J M} ~~retired postal~~ employee. Respondents have pointed out that under the departmental instructions son-in-law cannot be given compassionate appointment. Along with their counter they have enclosed Circular dated 9.12.1993 of the D.G.(P&T), wherein it has been laid down that except the widow, or son or daughter or adopted son or daughter, compassionate appointment cannot be given to any other person. In this case the ~~for~~ compassionate appointment is asked ~~in~~ ^{for} favour of the daughter or the son in law, ^{daughter of whom} in ~~which~~ ^{not his wife} it is stated to the ~~eldest~~ son in law. In any case this circular dated 9.12.1993 does not rule out compassionate appointment in favour of daughter and moreover this circular having been issued on 9.12.1993 cannot have retrospective effect. In the instant case the applicant retired on invalidation on 19.1.1990. Even ^{by} then two daughters were given in marriage and thus they cannot be held to be the members of the family. Thus applicant's family consists of himself and his wife. The applicant is in receipt of pension. In consideration of the above, I hold that the action of the Department holding that this is not a fit case for compassionate appointment cannot be found fault with and the prayer of the applicant is, accordingly held to be without any merit and the same is therefore, rejected. In the result, O.A. is rejected, but without any order as to costs.

Four copies of final order dt. 23.4.2001 served to counsels for both parties

Rs
26/4/01

P. J. M.
S. O. D.

Vice-Chairman
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