

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 647 OF 1999  
Cuttack this the 14th day of November/2000

Surendranath Mahakud

...

Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
14.11.2000



10  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 647 OF 1999  
Cuttack this the 14th day of November/2000

CORAM:

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

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Surendranath Mohakud, aged about 45 years,  
Son of Late Rama Chandra Mohakud, of Vill-Dankshina  
Narasinghpur, PO/PS - Rajnilagiri, Dist-Balasore  
at present At/PO - Bariha, PS: Simulia, Dist:Balasore

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Applicant

By the Advocates

M/s. S. Behera  
S.Mohanty  
D. Ray

-VERSUS-

1. Union of India represented through the  
Secretary, Department of Posts, Dak Bhawan  
New Delhi
2. Post Master General, Orissa, Bhubaneswar,  
At/PO/PS: Bhubaneswar, Dist - Khurda
3. Superintendent of Post Offices, Bhadrak  
Division, Bhadrak, At/PO/PS/Dist-Bhadrak
4. Post Master, Simulia Sub Post Office,  
At/PO: Simulia, Dist - Balasore
5. Branch Post Master, Bariha, At/PO:Bariha  
PS: Simulia, Dist - Balasore

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Respondents

By the Advocates

Mr. S.B.Jena  
Addl. Standing Counsel  
(Central)

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: In this Application the petitioner  
has prayed for a direction to Post Master General (Respondent No. 2)  
and Superintendent of Post Offices, Bhadrak Division (Respondent  
No. 3) for giving appointment to him under Rehabilitation Assistance  
Scheme. Respondents have filed their counter opposing the prayer  
of the applicant and applicant has filed rejoinder reiterating  
his prayer. For the purpose of considering this Application it  
is not necessary to record all the averments made by the parties

J. J. 100

in their pleadings. The admitted position can however, be briefly stated.

2. The case of the applicant is that one Laxman Prasad Das was working as Extra Departmental Delivery Agent, Bariha Branch Office. He passed away on 5.8.1999 leaving behind his widow and two married daughters. The applicant is the younger son-in-law of the deceased postal employee. Applicant has stated that he married the younger daughter of deceased postal employee in 1981 and thereafter he has been living in the house of his father-in-law and has been looking after them always and has become a member of that family. After the death of the father-in-law the family is financially distressed. The widow, two daughters and the elder son-in-law have written to the Department stating that they have no objection if compassionate appointment is provided to the petitioner. The petitioner has stated that he has applied to the Department for compassionate appointment, but as no orders were passed he came up in this Original Application with the prayers referred to earlier.

3. During the pendency of this Original Application the resultant vacancy in the post of E.D.D.A., Bariha was sought to be filled up and the Tribunal directed that before the post is filled up the representation of the petitioner for compassionate appointment should be disposed of. Accordingly respondents have rejected the representation in order dated 4.7.2000 (Annexure-R/1).

4. We have heard Shri D.Mohanty, the learned counsel for the petitioner and Shri S.B.Jena, the learned Addl. Standing Counsel appearing for the Respondents and also perused the records.

The prayer for compassionate appointment to the petitioner has been rejected by the Department vide Annexure-R/1 on



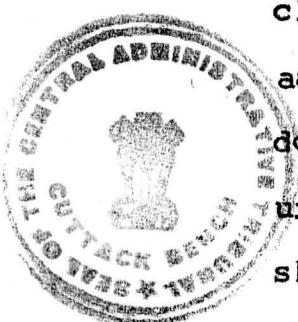
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on the ground that the Scheme for compassionate appointment in the Postal Department, which is Annexure-R/2 does not provide for a son-in-law to get compassionate appointment and as the petitioner is not covered under the Scheme, his prayer for compassionate appointment has been rejected. It is submitted by the learned counsel for the petitioner that the Scheme itself provides relaxation for giving compassionate appointment. It is also submitted by that the Hon'ble High Court of Orissa in the case of Chakradhar Das. vs. Orissa Bridge & Construction Corpn. Ltd., reported in Vol. 81(1996) CLT 423 have held that in order to give full meaning to the expression 'deserving cases' the claim of the petitioner's son-in-law cannot be lightly brushed aside on a technical plea that the definition of family members does not include son-in-law. On the basis of this it has been urged that the applicant's case for compassionate appointment should be considered even though he is the son-in-law and this case directly does not come within the purview of the Scheme.

5. We have considered the above submissions. From a reference to the provisions in the Scheme dealing with the relaxation we find that discretion has been given to give relaxation only in respect of age, educational qualification and typing ability. In the Scheme no discretion has been given to any authority to extend definition of the family and in view of this the petitioner cannot claim that in relaxation of the rules he should be given compassionate appointment.

So far as the decision of the Hon'ble High Court of Orissa in Chakradhar Das case (Supra), the Hon'ble Supreme Court in another subsequent decision in the case of L.I.C. V. Asha Rama-chandra Ambekar held that compassionate appointment can be provided

J. J.M.



only in terms of the Scheme applicable to the concerned Department and Courts/Tribunals cannot direct the Departmental Authorities to extend the Scheme on equitable consideration. In view of this the Scheme applicable to the Postal Department not having included son-in-law as member of the family, we hold that the applicant is not entitled to be considered for appointment on compassionate ground. Moreover, the family of the deceased postal employee consists of his widow and two married daughters. Respondents have stated in their counter that the widow is in possession of A.5.13 of agriculture lands from which she gets an annual income of Rs.8880/- and she has a rice haller in her native place from which she gets an annual income of Rs.6000/-. Moreover it has been further averred that the widow has been paid an amount of Rs.48,000/- towards ex gratia gratuity and severance allowance. It has been submitted by the petitioner that some years prior to the death of the deceased postal employee the properties were divided into three shares and given away to two daughters keeping one for the deceased employee and his widow. This submission of the learned counsel for the petitioner in course of hearing also casts doubt on his averment that the applicant is the son-in-law of the deceased postal employee. There has been some controversy if the rice haller is at present existing or not. It is submitted by the learned counsel for the petitioner that the rice haller has been damaged in the super cyclone and is therefore, not in working order. Even <sup>then</sup> we find that the widow is in possession of some lands, which to our mind would be adequate for her maintainence. The applicant not being covered under the scheme for compassionate appointment under Rehabilitation Assistance Scheme of the Postal



Jfm.

Department, the Department has rightly rejected his representation and he cannot, therefore, be provided compassionate appointment on equitable consideration nor can the Tribunal issue any direction to that effect. In view of this, we hold that the applicant has not been able to make out a case for any of the reliefs prayed for. The Original Application is held to be without any merit and the same is rejected, but without any order as to costs.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.SAHOO//



SOMNATH SOM  
VICE-CHAIRMAN