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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 72 OF 1999
Cuttack this the 27th day of Sept. 2002

Sudhir Kumar Nayak ... 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.

M. R. Mohanty
27/09/2002
(M. R. MOHANTY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 72 OF 1999
Cuttack this the 30th day of Sept. /2002

CORAM:

THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

...

Sudhir Kumar Nayak,
S/o. Late Madan Mohan Nayak
Ex-Branch Post Master
At/PO-Sasanpadar, Via-Golanthara
District-Ganjam

...

Applicant

By the Legal Practitioners

Mr.D.P.Dhalasamant

-VERSUS-

1. Union of India represented through
Chief Post Master General, Orissa Circle,
Bhubaneswar, PIN - 751 001
2. Post Master General, Berhampur Region
Berhampur, Ganjam-3
3. Senior Superintendent of Post Offices,
Berhampur (Ganjam) Division, Berhampur
District-Ganjam

...

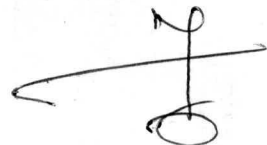
Respondents

By the Legal Practitioners

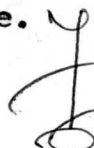
Mr.A.K.Bose
Sr.Standing Counsel
(Central)

O R D E R

MR.M.R.MOHANTY, MEMBER(JUDICIAL): In this Application under Section 19 of the Administrative Tribunals Act, 1985, the Applicant (who is the son of deceased Branch Post Master of Sasanpadar Branch Post Office under Golanthara Sub Post Office of Ganjam District) has prayed for a direction to Respondents to provide him an employment on compassionate ground; by quashing the order of rejection passed by the Respondents/Postal Department under Annexure-A/9 dated 10.4.2002.



2. Applicant's father (Madan Mohan Nayak) while working as E.D.B.P.M., Sasanpadar Branch Post Office expired on 26.12.1998. The Death Certificate has been filed as Annexure-1. Applicant being the eldest son made a representation to Res. No.3 on 31.12.1998 seeking an appointment on compassionate ground. On 19.01.1999 he made another representation and filed the present O.A. on 23.02.1999. By interim order dated 24.02.1999, the Respondents/Department were directed to dispose of the representation of the Applicant for compassionate appointment (before filling up of the post of E.D.B.P.M., Sasanpadar on regular basis) and, accordingly, the Applicant submitted another representation on 08.03.1999 (along with a certificate issued by M.L.A. of his Constituency, in support of their family separation); copies of which have been placed on record as Annexure-6 and Annexure-7. On 23.08.2000, the Sub Divisional Inspector (Postal) was asked to obtain reports regarding separation; as is seen under Annexure-5. Applicant, on 11.06.2000, handed over another letter (issued by the M.L.A. of his Constituency) to the Sub Divisional Inspector (Postal) in support of separation in the family. Despite all that, the Applicant was intimated under Annexure-9 dated 10.04.2002 that his prayer for a compassionate appointment to have been rejected, as the two sons of the deceased Branch Post Master are already in service.



3. Respondents/Department have filed their counter (and also an additional counter) opposing the prayer of the Applicant. The grounds taken by the Respondents/Department in rejecting the prayer of the Applicant for Compassionate appointment are that the family is not indigent; because (i) the two brothers of the Applicant are in service under the Central Government and (ii) that the deceased had only three months' service prior to his death.

4. To this; it has been submitted by the learned counsel for the Applicant (at the hearing) that the father of the Applicant having breathed his last, while still in service, there are no reason/no such rule to deny him compassionate appointment; solely because his father/the deceased Postmaster had only three months' service to go before his retirement on superannuation. The learned counsel for the Applicant (while countering the assertion of the Respondents/Department that the deceased family is not indigent, because the two brothers of the Applicant are in employment) drew my attention to Instruction (4) with regard to Compassionate Appointments to Dependents of EDAs (as mentioned in Section X at Page 147 of Swamy's Compilation of Service Rules for Postal E.D. Staff 20 Edition) and submitted that the claim of the Applicant for compassionate appointment ought to have been considered in the light of the instructions contained therein and that the same not having been considered, the order of rejection under Annexure-9 dated 10.4.2002 is not sustainable.

5. I have considered the rival submissions carefully



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and given my anxious consideration. For the purpose of coming to a definite conclusion it would be worthwhile to extract the relevant Instruction(4) with regard to compassionate appointments to dependants of the deceased E.D.As, which reads as under ; -

" In certain cases where there is already an earning member in the family but Huddia/ Sarpanch or an MP/MLA certified that the employed member is living separately and not rendering any financial assistance to the main family, the requests for compassionate appointments may be entertained and considered on merits. In certain cases, the literate dependants/near relatives are neither employed in Government service nor somewhere else but are engaged in cultivation, etc., and not supporting the family of the deceased E.D. Agent, requests for compassionate appointment in such cases can be entertained".

On the face of this Departmental Instruction and the Certificates granted by the M.L.As (Annexures-7 & 8) I am of the opinion that the Department/Respondents need give due consideration to the case/prayer of the Applicant for a compassionate appointment; notwithstanding the fact that two of his brothers are gainfully employed, for they are separate from the family.

6. Then remains the sole ground ^{of the Respondents} that the father of the Applicant died, when he had only three months' service to go before his retirement on superannuation. In absence of any prohibition, the Department/Respondents should give due consideration to the case/prayer of the Applicant to get a compassionate employment.

7. In the above premises, I hereby set-aside the rejection order under Annexure-A/9 dated 10.4.2002. As a consequence, this O.A. is allowed, the Department/Respondents

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should consider the case/prayer of the Applicant for providing him a compassionate appointment; notwithstanding the fact that his brothers are in employment and that his father died three months' prior to his date of normal superannuation. No costs.

Mohanty
27/09/2002
(M.R. MOHANTY)
MEMBER (JUDICIAL)

KNM/CM /