

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Order dated 15.10.2001

Shri A.K.Nanda, learned counsel for the petitioner and his Associate are absent when called. There has been no request made on their behalf seeking adjournment. Earlier the matter was posted to 14.8.2001 and at the instance of the learned counsel for the petitioner the matter was adjourned to this day. In this case pleadings have been completed long ago. In view of this, it is not possible to drag on the matter indefinitely more so in the absence of any request for adjournment. We have, therefore, perused the records and heard Shri S.Behera, learned Addl. Standing Counsel on behalf of the departmental respondents.

In this O.A. the petitioner has prayed for a direction to respondents to issue appointment order appointing him to the post of E.D.M.C., Talpali B.O. and to allow him two years time to acquire requisite qualification. 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. Admittedly the father of the applicant was working as E.D.M.C., Talpali and he died in harness on 9.4.1996 leaving behind his widow, the only son, applicant and two daughters, who got married during the life-time of the deceased E.D. employee. As the applicant's father was working as E.D.M.C. and ~~he was~~ there was immediate need in carrying-out mail, after the death of the father the applicant was provisionally appointed as E.D.M.C. in order at Annexure-2 till the regular selection is made to the post. The applicant applied for compassionate appointment. But as the minimum qualification required for the post of E.D.M.C. is Class VIII and the applicant having read upto Class-VII, he could not be appointed. The departmental authorities in their counter have stated that the family of the deceased E.D. employee, the father of the applicant, consists only widow and the present

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applicant and that the family is having a monthly income of Rs.8500/-. This assertion has not been denied by the applicant through any rejoinder.

Law is well settled that appointment can be made only in terms of the recruitment rules and so far as compassionate appointment is concerned, the same can only be made only in terms of the Scheme of the compassionate appointment, which is in force <sup>in</sup> <sup>particular</sup> by the <sup>various</sup> Departments. Instructions of D.G.Posts provide relaxation of educational qualification for compassionate appointment in case of widow of the deceased employee only and not in case of other dependents of the deceased employee. As the applicant did not have the minimum educational qualification for the post in question, the departmental authorities were right in not considering his case for compassionate appointment. The post also cannot remain vacant for two years till the applicant acquires the required qualification, which is his second prayer. Tk

In view of discussions held above, we hold that the applicant is not entitled to any of the reliefs prayed for by him. The O.A. is held to be without any merit and the same is rejected, but without any order as to costs.

MEMBER (JUDICIAL)

VICE-CHAIRMAN

Free copies of final  
order dt. 15.10.2001  
issued to counsel for  
both sides.

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