

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 168 OF 2000
Cuttack, this the 20th day of February, 2001

Girish Pradhan

Applicant

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*.

S. N. S.
(G. NARASIMHAM)
MEMBER (JUDICIAL)

S. N. S.
(SOMNATH S.)
VICE-CHAIRMAN
20.2.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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CORAM:

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

.....
Girish Pradhan, aged about 31 years, son of late Raghunath
Pradhan, At-Kankadaghat, Kamakshyanagar, District-Dhenkanal
.....
Applicant

Advocate for applicant - Mr.P.K.Mohapatra

Vrs.

1. Union of India, represented through its Chief Post Master General, Orissa Circle, Bhubaneswar-1, District-Khurda.
2. Superintendent of Post Offices, Dhenkanal.
3. Sub-Divisional Inspector of Post Offices, Kamakshyanagar, At/PO-Kamakshyanagar, Dist.Dhenkanal

..... Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has
prayed for quashing the order dated 11.3.1997 rejecting his
prayer for compassionate appointment and also the order
dated 8.10.1997 rejecting the prayer of the applicant's
mother for compassionate appointment. He has prayed for a
direction to the respondents to provide compassionate
appointment to him.

2. The admitted position is that the
applicant's father died in harness on 15.3.1996 while
working as EDMC, Kankadahada S.O. leaving behind his widow,
two sons of which the applicant is the eldest, and a
married daughter. After the death of the applicant's father,

the applicant was provisionally appointed in the post of EDMC. His case for compassionate appointment was considered and rejected as he did not have the minimum qualification of Class-VIII pass. He has only passed Class IV as the School Leaving Certificate at Annexure-R/5, not denied by the applicant, shows. The applicant thereupon approached the Tribunal in OA No. 251 of 1997 which was disposed of in order dated 24.4.1997 directing the departmental authorities to consider giving compassionate appointment to the widow of the deceased ED Agent on getting a representation from her. Accordingly, the representation of the widow Giritani Padhan was considered and rejected in the order at Annexure-1^o. Against these admitted facts, the applicant has come up with the prayers referred to earlier. For the purpose of considering the petition it is not necessary to record all the averments made by the parties in their pleadings. These willl be referred to while considering the submissions made by the learned counsel for both sides.

J.Jam. 3. We have heard Shri P.K.Mohapatra, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents. The learned counsel for the petitioner has relied on the decision of the Hon'ble Supreme Court in the case of Bhagwati Prasad v. Delhi State Mineral Development Corporation, AIR 1990 SC 371, which is at Annexure-12 and has also been perused.

4. It is submitted by the learned counsel for the petitioner that on the death of the applicant's father on 15.3.1996, on receipt of an application from the petitioner, he was issued with appointment order on 22.3.1996 as EDMC on ad hoc basis for the period from

22.3.1996 to 20.5.1996. This appointment was further extended from 21.5.1996 to 31.7.1996 pending decision of higher authorities on his prayer for compassionate appointment. Prior to this, the applicant has worked in two spells as EDMC. The applicant has stated that during his ad hoc service as EDMC after the death of his father, he has been able to manage the work to the satisfaction of departmental authorities and therefore, his prayer for compassionate appointment should not have been rejected. The respondents have pointed out that after the death of his father when the petitioner applied for the post of EDMC, he had wrongly stated that he has passed Class VIII. The respondents have enclosed the application dated 22.3.1996 of the applicant at Annexure-R/4. Submission of this application has not been denied by the petitioner and we find that in this application the petitioner did write that he has read upto Class VIII. But actually he has only passed Class IV. It is also the admitted position that for the post of EDMC, the minimum qualification is Class VIII pass. The learned counsel for the petitioner has stated that as the applicant has satisfactorily worked as EDMC on ad hoc basis after the death of his father and even earlier, the minimum educational qualification should not be insisted upon moreso because this is a case of compassionate appointment. Law is well settled that compassionate appointment is to be given in terms of the scheme for compassionate appointment and the departmental instructions provide for relaxation of educational qualification in the matter of compassionate appointment only in respect of the spouse of the deceased ED Agent and not for his son or daughter. In the instant case, in pursuance of the order of

of the Tribunal in OA No.251 of 1997, the applicant's mother Giritani Pradhan applied for compassionate appointment, but her prayer was rejected in the order at Annexure-10. The ground given in this order is that the mother of the applicant is totally illiterate person and for performing the duties of EDMC, she must have knowledge of reading and writing. Moreover, it has also been mentioned that the applicant's mother is 53 years old and would not be capable of travelling 22 KM daily for exchange of mail on foot as she also does not know cycling. We find that the grounds on which the prayer for compassionate appointment of the applicant's mother has been rejected are reasonable and therefore, the prayer for quashing Annexure-10 is rejected.

5. So far as the applicant is concerned, admittedly he has passed Class IV and the requirement of educational qualification is Class VIII pass. The scheme does not provide for any relaxation of qualification in respect of son and daughter of deceased ED agent. In view of this, we hold that the respondents' action in rejecting the prayer for compassionate appointment does not suffer from any illegality. The decision of the Hon'ble Supreme Court relates to regularisation of a person who is in service for long on ad hoc basis. There the Hon'ble Supreme Court have held that in the facts and circumstances of that case the prayer for regularisation cannot be rejected merely on the ground of absence of required educational qualification. That decision provides no support to the prayer of the applicant in this case.

S. Jam.

6. In the result, we hold that the petition is without any merit and is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
20.2.2001
VICE-CHAIRMAN

February 20, 2001/AN/PS