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Order dated 15.11.2001

Learned counsel for the petitioner is absent on call. There is also no request for any adjournment. This is a matter relating to compassionate appointment which requires to be disposed of expeditiously. Pleadings in this case have also been completed long ago. In view of this it is not possible to drag on the matter indefinitely, moreso in the absence of any request for adjournment. I have, therefore heard Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents and also perused the records.

In this Original Application the petitioner, who is the son of Kanhu Charan Das, ~~an~~ Ex-Postal Assistant in Balasore Postal Division has prayed for quashing the order at Annexure-4, rejecting his prayer for compassionate appointment and also for direction to respondents to give him appointment in place of his father, Shri Kanhu Charan Das, on compassionate ground. Respondents have filed their counter opposing the prayer of the applicant and applicant has filed 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's father Shri Kanhu Charan Das was working as Postal Assistant, who retired from service on invalidation w.e.f. 15.9.1998. The date of superannuation of applicant's father was 31.3.2002 on attainment of 60 years of age. By the time his father retired on invalidation ground had already completed 55 years of age. The case of the applicant for compassionate appointment was considered and rejected on the ground that in case of wards of employees retired on invalidation can be considered only if such retirement has taken place before the employees' attaining 55 years of age. In other words, the employee concerned ought to have three years

Seen.

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more service left till the date of retirement on superannuation to enable his son/daughter to be considered for ^{P. J. M.} ~~for~~ appointment on compassionate ground, the other instructions for compassionate appointment being fulfilled. The case of the applicant is that this age limit of 55 years was determined when the retirement age was 58, but from 1998 age of retirement has been increased to 60 years and therefore, in case of employee retiring on invalidation before attainment of 57 years of age, compassionate appointment to son/daughter of such employee can be considered. Respondents have pointed out that the Department of Personnel & Trg. have clarified that with the increase of age of retirement on superannuation from 58 to 60, the age limit of 55 years for the present purpose does not automatically get extended till 57 years. The extract of the relevant circular dated 9.10.1998 is at Annexure-R/1, wherein it has been mentioned that any request for increasing the relevant age from 55 to 57 must not be allowed.

Law is well settled that compassionate appointment is to be provided in terms of Scheme for Compassionate appointment formulated by the Department concerned. This has been laid down by the Hon'ble Supreme Court in the case of LIC of India vs. Mrs. Asha Ramachandra Ambekar reported in JT 1994

(2) SC 183. As the scheme of the Department does not envisage granting of compassionate appointment in case of son/daughter of an employee retiring on invalidation after attaining 55 years of age, the prayer of the applicant in this O.A. is held to be without any merit and therefore, the O.A. is rejected, but without any order as to costs.

S. N. Datta
VICE CHAIRMAN

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

16/11/01

P. J. M.
S.W. (D)