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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.245 OF 2000
Cuttack this the 9th day of March/2001

R.N. Pradhan ... 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

9.3.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 245 OF 2000
Cuttack this the 9th day of March /2001

CORAM:

THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

Raghunath Pradhan, aged about 24 years,
Son of Late Itra Pradhan, permanent resident
of Village Haripur, Tahasil Dasapalla

...

Applicant

By the Advocates

M/s. Ashok Kr. Mishra
K.C. Nayak

-VERSUS-

1. Union of India represented through its Director to Government of India, Department of A.H. and Dairying, Krishi Bhawan, New Delhi
2. Director, Central Poultry Breeding Farm, Bhubaneswar-751012, Dist - Khurda

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Respondents

By the Advocates

Mr. U.B. Mohapatra,
Addl. Standing Counsel
(Central)

ORDER

MR. G. NARASIMHAM, MEMBER (JUDICIAL) : In this case for compassionate appointment, the applicant is the son of the deceased, who died in harness on 12.10.1998, while working under Respondent No. 2. Applicant is a Graduate. His widowed mother and another younger brother, as per Legal Heir Certificate vide Annexure-2 are with him. Without referring to facts in detail it is sufficient for me to take note that his application for compassionate appointment on the ground of the indigent condition of the family of the deceased has been ultimately considered by Respondent No. 1, who turned down the request mainly on the ground ^{of} ~~for~~ non availability of vacancy and that too under the relevant scheme for compassionate appointment framed in the year 1988, such appointments can be made out of 5% quota of vacancies allotted to such appointments. In other words, the Department does not dispute the indigent

condition of the family of the deceased.

2. The only point for consideration is whether the applicant can be made to wait till his turn comes as against the vacancies arising out of 5% quota, set apart for compassionate appointments. As per the Scheme under Annexure-6, the appointing authority may hold back upto 5% of vacancies for appointment under compassionate scheme to be filled up by Direct Recruitment through Staff Selection Commission or otherwise to be filled up by appointment on compassionate grounds. A person selected for appointment on compassionate ground should be adjusted in the Recruitment Roster against the appropriate category, viz., SC/ST/OBC/General, depending upon the category to which he/she belongs. This ceiling of 5% of Direct Recruitment vacancies for making compassionate appointment should not be exceeded by utilising anyother vacancies, for example, Sports quota vacancies.

3. Maintaining a quota and consequent waiting list of the candidates approved for compassionate appointments goes against the spirit of decisions of the Apex Court pronounced now and then. The Apex Court has been consistently observing that the object of providing compassionate appointment is to mitigate the hardship of the family due to sudden death of the sole bread earner and the family should be provided immediate relief of employment; for instance vide decisions as under:

- 1) Smt.Sushama Gosain & Ors. vs. Union of India & Ors. reported in AIR 1989 SC 1976
- 2) Umesh Nagpal vs. Union of India & Ors. reported in 1994(4) SCC 138
- 3) Dhallaram vs. Union of India & Ors. reported in AIR 1999 SC 564; and
- 4) Sanjaya Kumar vs. State of Bihar reported in 2000 SCC (L&S) 895

It is not as though the framers of the Scheme are not

aware of the observations of the Apex Court in this regard. This is clear from the expression "emergency" incorporated in Para-1 of the Scheme under the Heading 'OBJECT'. Even in Para-5, concerning eligibility it has been mentioned that in order to become eligible the family must be indigent and deserving immediate assistance of relief from financial destitution. Thus, maintenance of waiting list for 5% quota in the matter of compassionate appointment is against the spirit of these decisions of the Apex Court and ^{this} cannot but be depreciated.

4. while Division Bench of this Tribunal/considering this aspect of the matter in Original Application Nos.797/98 and 506/99, disposed of on 17.7.2000 and 12.1.2001, respectively, held that there could be no waiting list for appointing a person eligible for compassionate appointment. This has also been reiterated in Original Application No.135/2000, disposed of on 7.3.2001 by the Single Bench of this Tribunal. Even, the Principal Bench of the C.A.T. in O.A.1962/97, disposed of on 2.6.1998 in the case of Lilavati vs. Union of India & Ors., had taken the same view.

5. In view of the legal position as discussed above, I am not inclined to agree with the stand of the Department that the applicant would be provided appointment on compassionate ground only as and when his turn comes. At this stage Shri Ashok Kr.Mishra, the learned counsel for the applicant brought to my notice the provision under Para-7(f) of the Scheme, which lays down that if sufficient vacancies are not available in any particular office to accommodate the persons waiting for compassionate appointments, it is open to the Administrative

Ministry/Department/Office to take up the matter with the other Ministries/Department/Offices of the Government of India to provide at an early date appointments on compassionate grounds to those in the waiting list. The learned counsel for the applicant also submitted that the applicant is prepared to serve at any place in India, if offered a post commensurate with his educational qualification.

6. I, therefore, direct the Respondents (Department) to provide employment to the applicant on compassionate ground as against the existing vacancies, and if not, against a next available vacancy commensurate with his educational qualification.

7. The Original Application is allowed as per observations and directions given above, but without any order as to costs.

L. 19.3.2011
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//