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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 436 of 2000
CUTTACK THIS THE 24th DAY OF MAY, 2001

B. Panigrahi Petitioner

- Vrs -

Union of India & Others Opp. Parties

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.*

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM
VICE-CHAIRMAN
24.5.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 436 of 2000
CUTTACK THIS THE 24TH DAY OF MAY, 2001

CORAM:

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

.....

B. Panigrahi,
Aged about 30 years,
S/o - Late Radhamohan Panigraphi,
At/Po - Barunapal,
Dist - Dhenkanal.

..... Petitioner

By the Advocate (s)

M/s K.K. Swain
P.N. Mohanty
M.R. Nayak
B. Jena

-VERSUS-

1. Union of India,
represented through its
Secretary,
Department of Telecommunication,
Sanchar Bhawan,
New Delhi - 110001
2. Director General,
Department of Telecommunication,
Sanchar Bhawan,
New Delhi - 110001
3. Chief General Manager,
Telecommunication,
Orissa Circle, Bhubaneswar
4. Telecom District Manager,
Dhenkanal,
At/Po/Dist - Dhenkanal.

..... Respondent

By the Advocate (s)

Mr. B. Dash
ACGSC

ORDER

SOMNATH SOM, VICE-CHAIRMAN: In this original application the petitioner has prayed for quashing the order dated 14.06.1999 (Annexure-5) rejecting the prayer for compassionate appointment and also for a direction to the Respondents to appoint the applicant in Grade 'C' post on compassionate ground. Departmental Respondents have filed counter opposing the prayer of the applicant and applicant has filed rejoinder.

2. We have perused the pleadings and have heard Shri K.K. Swain, Learned Counsel for the Petitioner and Shri B. Dash Learned Additional Standing Counsel for the Respondents. Learned Counsel for the petitioner has referred to the case of Shri Balbir Kaur Vrs. Steel Authority of India decided by the Hon'ble Supreme Court and reported in 2000(1) SCC(L&S) 767, and decision of the Hon'ble High Court of Orissa in Mohini Kumar Naik Vrs. Orissa State Electricity Board, 1992 (I) OLR 173 and Shrimati Kodal Beua Vrs. Orissa State Electricity Board, 1992 (II) OLR page 87. We have perused these decisions.

3. For the purpose of considering this petition it is not necessary to go into too many facts of the case. The admitted position is that applicant's father passed away on 23.01.1998 while working as Senior Section Supervisor in the Office of TDM, Dhenkanal. At the time of his death he had more than six years of service left. He left behind his widow, only son, the present applicant and two un-married daughters. The petitioner has passed +2 Science and he applied for compassionate appointment as the family was in indigent condition. He has stated that Subdivisional Engineer conducted an enquiry and submitted a report certifying the distressed condition of the family and

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recommending compassionate appointment. This report is at (Annexure-4). Applicant's grievances is that Circle High Power Committee, without considering the report, rejected his prayer even without assigning any reason. Applicant has stated that his mother, the widow of the deceased employee is ailing but because of financial difficulty proper treatment could not be arranged for her. The daughters of the deceased employee are of marriageable age but they could not be given in marriage. In consideration of the above he has come up in this petition with the prayers referred to earlier.

4. Respondents in their counter have stated that Circle Relaxation Committee considered the case but did not find it to be a fit case for compassionate appointment. It is stated that on the death of the deceased employee the widow was paid DCRG of 270353/-, CGEGIS amounting to Rs.38,988/-, P.F. of Rs.167813/-, and leave encashment amounting of Rs.70,364/-. The total amount comes to Rs.547580/-. It is stated that petitioner's mother is in receipt of family pension of Rs.4205/- per month and as per income certificate granted by Tahsildar, Hindol the family has annual income of Rs.7000/- from agricultural land. Respondents have stated that the family is not in indigent condition and therefore the case of the applicant for compassionate appointment has been rightly rejected. It is further stated that the Department of Telecommunication has of banned recruitment to various categories/posts except superior technical cadre like JTO and Jr. Engineer and there has been no recruitment at other levels like that of Group 'C' and Group 'D' categories ^{for} years together and there is no future prospect of such recruitment. It is further stated that the

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applicant did not submit the land particulars to the Subdivisional Engineer nor did the latter get any information on land holding of the family from the neighbours of the applicant. It is further stated that Hon'ble Supreme Court has held in the case of Umesh Kr. Nagpal that compassionate appointment is not a vested right. On the above grounds they have opposed the prayers of the applicant.

5. In his rejoinder the applicant has contested the averment of the Respondents that because of granting of pensionary benefits to the family, it is no longer in indigent condition. The applicant has also pointed out that while the respondents have stated that there are no posts to which compassionate appointment can be given, in the proceedings of the High Power Committee enclosed by the Respondents themselves several persons have been recommended for compassionate appointment. On the above grounds applicant has reiterated his prayer in his rejoinder.

6. Learned Counsel for the petitioner has pointed out that in the case of Balbir Kaur (Supra) Hon'ble Supreme Court has held, in the facts and circumstances of that case, that sanction of benefits under the Family Benefit Scheme will not be a bar for consideration of giving compassionate appointment to a member of a family. It is no doubt true that sanction of pensionary benefit by itself cannot be the sole criterion for rejecting the prayer for compassionate appointment but sanction of pensionary benefits goes to show the financial condition of the family. In the instant case the mother of the petitioner is in receipt of monthly pension of Rs.4205/- per month. It is submitted by the Learned Counsel for the

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petitioner that the family pension at this higher scale will cease after the date on which the deceased employee would have normally superannuated and the level of family pension will come down. In this case the deceased employee passed away more than six years before his date of superannuation. Thus the widow is entitled to draw family pension at higher scale for a period of six years i.e. atleast up to some time in the year 2004. Taking into account an income of Rs.4205/- per month the condition of the family cannot be said to be indigent. It is also to be noted that the family has an income of around Rs.600/- per month from agricultural land, a fact which has been suppressed by the petitioner. Compassionate appointment is provided for giving immediate help to the family of the deceased employee. In consideration of the above we find no illegality in the stand taken by the respondents that the family is not in an indigent condition.

7. In the decisions of the Hon'ble High Court of Orissa in Mohini Kumar Naik and Kodal Bewa's case it has been held that as death in those cases occurred prior to imposition of ban order on recruitment by the Orissa State Electricity Board, the applicants therein are entitled to consideration for compassionate appointment. In the instant case applicant has rightly pointed out that notwithstanding the averments of the Respondents regarding ban order, in the meeting of the High Power Committee held on 21.12.1998 where the case of the applicant was considered and rejected several cases have been recommended for compassionate appointment. On a perusal of those cases, from the proceedings of the High Power Committee we find that all the cases recommended ^{were} for appointment as regular Majdoor

or Sweepers or other Group 'D' posts. Only in one case recommendation was made for a technical category like JTO. Applicant here wants compassionate appointment in Group 'C' category. Respondents have stated that no appointment is being made in Group 'C' category. This aspect however need not be gone into further, as we have upheld the contention of the Respondents that the financial condition of the family does not justify grant of compassionate appointment.

8. In the result therefore the original application is held to be without any merit and is rejected but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
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K.B.//