

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O.A.No. 603 of 2000

Cuttack, this the ~~26th~~ day of August, 2010

Dhirendra Mallick & Anr. .... Applicants

-Versus-

Union of India & Others ..... Respondents

C O R A M

**THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)**

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In this Original Application, the Applicants have prayed for a direction to the Respondents to provide employment to the Applicant No.2 in the post of his father, i.e. Applicant No.1. I have gone through the averments made in the Original Application as well as the replies filed by the Respondents. The Applicants in this Original Application have stated that Applicant No.1 Ghuruda Mallick was working as a Gangman in the South Eastern Railway, Jajpur Road upto 13-12-1996 and thereafter he was declared medically unfit. On 01-06-1997, Applicant No.1 retired voluntarily from his service on medical ground. He had made a representation on 21-6-1997 and 20-07-1999 to the Divisional Railway Manager (P), Khurda Road for consideration of the case of Applicant No.2 who is the son of Applicant No.1 for consideration for employment on compassionate ground. It has been stated by the Respondents in their counter filed on 6<sup>th</sup> July, 2001 that Applicant No.1 Shri Ghuruda Mallick the father of applicant No.2 was declared medically de-categorized on 13-12-1996 while he was working as Head Gangman. At the time of medical de-categorization, Applicant No.1 was aged 57 years, 5 months and 30 days and he had already put in 30 years 10 months and 7 days of service. On being medically de-categorized he was not willing to work in the post lower than that of his post and made application for voluntary retirement which was duly accepted by the competent authority. Accordingly, applicant No.1 was allowed to retire voluntarily with effect from 01-06-1997.

Thereafter, appointment on compassionate ground in favour of his third son (Birabhadra Mallick) was sought by Applicant No.1. This being a case of voluntary retirement consequent to medical de-categorization beyond the age of 55 years, the case was referred to Head quarters (CPO/ECR/BBS) for obtaining administrative approval as per procedure laid down vide Estt. Sl.No.86/98 (RBE No. 106/95) The CPO/ECorly/BBS vide letter No. E.Co.R/Pers./EA/Gr.D/16 dated 8.4.99 (Confidential) has communicated that since Birabhadra Mallick (third son of the Applicant No.1) did not possess the minimum educational qualification for recruitment to Group D posts in terms of RBE No.277/98, the employment assistance on compassionate ground in favour of Birabhadra cannot be offered. This fact was intimated to the Applicant No. 1 in letter dated 12.5.1999. Thereafter through representation dated 23.7.99; Applicant No.1 sought appointment on compassionate ground in favour of his fourth son (Dhirendra Mallick/ Applicant No.2 whose educational qualification is Class IXth pass. The case of Applicant No.2 was once again examined but the same was rejected on the ground that when Applicant No.1 was only having less than eight months of service for retirement and one month of service on the date of voluntary retirement there exists no reason to provide employment in favour of Applicant No.2. The said decision was communicated to the Applicants vide letter under Annexure-1 dated 4.5.2000. Accordingly the Respondents prayed for dismissal of this OA.

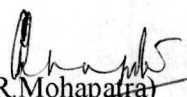
2. Heard Learned Counsel for both sides and perused the materials placed on record including the decision of the Hon'ble Apex Court in the case of **State of Harayana and others v Rani Devi and another**, AIR 1996 SC 2445 relied on by the Learned Counsel for the Applicant in support of the relief claimed in this OA. It is noticed that respondents considered the grievance for providing employment on compassionate ground in favour of

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third son but the same was rejected on the ground of lack of qualification of the third son. When he applied seeking the same relief in favour of his fourth son who is a class IXth pass, Respondents rejected and intimated to the applicant in Annexure-1 virtually without assigning any reason. In the counter also no reason has been assigned as to why they rejected the grievance of applicant. Law is well settled that failure to give reasons amounts to denial of justice. Reasons are live links between the minds of the decision taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. Right to reason is an indispensable part of a sound judicial system, reasons at least are sufficient to indicate application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. In view of the above ends of justice would be met if this matter is remitted back to the Respondents for giving fresh consideration on the grievance of the Applicant and communicate the decision within a period of 60 days from the date of receipt of this order. Ordered accordingly.

3. In the result, with the observation and direction made above, this OA stands disposed of. No costs.

  
(C.R. Mohapatra)  
Member (Admn.)