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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 629 OF 2000
Cuttack this the 5th December 2003


P.K. Rana ... Applicant(s)


-VERSUS-

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? 7e
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? no


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.629 OF 2002
Cuttack this the 5th December 2003

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)
...

Prasana Kumar Rana, aged about
41 years, Son of Late Adhikari Rana
At/PO-Manikmara, District-Dhenkanal

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Applicant

By the Legal Practitioners

M/s.B.R.Saranghi
P.K.Rout
P.K.Kar

-VERSUS-

1. Superintendent of Post Offices,
Dhenkanal Division, Dhenkanal - 759 001
2. Subdivisional Inspector (Postal)
Talcher Subdivision, Talcher-759 100
3. Sub Post Master, Indiragandhi Institute
of Technology, Saranga, Dist-Dhenkanal
4. Pravakar Dehury, E.D.Male Career,
At/PO-Manikmara, Via-I.G.I.T.,
Saranga, District-Dhenkanal

...

Respondents

By the Legal Practitioners

Mr.A.K.Bose, Sr.Standing
Counsel(Central)
(Res. 1 to 3)
Mr.T.Rath(Res. No.4)

O R D E R

MR.M.R.MOHANTY, MEMBER(JUDICIAL): In this Application under
Section 19 of the Administrative Tribunals Act, 1985, the
Applicant has prayed for quashing Annexure-A/6 dated
8.8.2000 and for issue of direction to Respondents/Department
to consider his case for appointment to the post of Extra
Departmental Mail Carrier, Manikmara Branch Post Office on
compassionate ground.

2. The brief facts leading to filing of this O.A.

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are that Applicant's father Shri Adhikari Rana, while continuing as Extra Departmental Mail Carrier at Manikamara Branch post Office, died prematurely on 30.04.1999. After the death of his father, the Applicant was appointed as Extra Departmental Mail Carrier for a period of two months i.e. from 05.05.1999 to 30.06.1999. However, vide Annexure-A/6 dated 03.08.2002, Applicant's prayer for compassionate appointment having been rejected, he has approached this Tribunal with prayers referred to above.

3. Respondents by filing a counter, have opposed the prayer of the Applicant for compassionate appointment; on the grounds (a) that the family of the Applicant is not indigent and (b) that he does not possess the requisite educational qualification prescribed for the post of Extra Departmental Mail Carrier.

4. We have heard the learned Counsel Shri B.R.Sarang, learned Counsel appearing for the Applicant, Mr. Anup K. Bose, Learned Senior Standing Counsel appearing on behalf of the Respondents and Shri T.Rath, Learned counsel appearing on behalf of Respondent No.4 and perused the materials placed on record.

5. Compassionate appointments as has been observed by the Hon'ble Supreme Court, are provided to the surviving

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members of the families of prematurely died Government Servants; in order to mitigate the hardships caused due to such death of the sole bread winner of the family. The Hon'ble Apex Court has even gone to the extent of saying that, in the matters of compassionate appointments, the Departments should not delay in providing such appointments; as it would frustrate the very purpose of providing such employment.

As regards the stumbling block that the Applicant does not possess the minimum educational qualification for the post of E.D.M.C.; which, in any case, has been relaxed in respect of widow/widower, we feel that there has been a sheer discrimination on the face of the judicial dictum of the Hon'ble Apex Court between the widow/widower and other dependants (of the deceased) having not the requisite educational qualification. The Department is not at just in not giving relaxation of educational qualification in case of other dependants of the deceased employees (whereas relaxation provision is only meant for widow/widower), the very purpose being one and the same and, thereby, it violates Articles 14 and 16 of the Constitution of India. DGP&T letter No.17-85/93-ED&Trg. dated 2.2.1994 (note-3) provides that "the local authorities will encourage the dependants appointed as ED Agents in relaxation of the minimum educational qualifications to attain the prescribed minimum educational qualifications (as prescribed in their Office Letter No.17-366/91-ED&Trg. dated 12.3.1993) and, in Note-4 of the said instructions,

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it has also been provided that the dependants of the deceased ED Agents who have been already appointed albeit on temporary basis, pending completion of the requisite formalities and formal approval of the Circle Relaxation Committee, in accordance with the orders applicable at the relevant point of time prior to 1-4-1993, may be allowed to continue to hold the posts of ED Agents, if the competent authority formally approves their appointments on compassionate grounds*. Therefore, once upon a time, the authorities had taken care of such a situation to mitigate the hardships of the dependants of deceased employees. It is a stale argument on the part of the Respondents/CRC to hold that the Applicant was considered good enough for temporary work but was not found good enough on permanent basis. The golden logic of the Respondents is that the Applicant does not have educational qualification of VIII for the post. If that standard of educational qualification is a sine qua non for discharging the responsibility of an EDA, the Respondents have to answer how the Applicant was able to discharge his duties for certain period inspite of the fact that he did not have the requisite educational qualification. It also appears that though the Applicant was not possessing the requisite educational qualification, he was educated enough to be able to manage the financial and other functions of the post office and had appropriate inter personal relationship qualities to deal with the public. The short fall in educational qualification, he

had made good by his on job performance. Had that been not so, he could not have served for those periods to the satisfaction of the community in his area. Surely, there would have been serious public complaints, about which the Respondents had not made any mention.

As regards the plea of the Respondents that the family was not in indigent condition due to receipt of terminal benefits, of the deceased employee is contrary to the settled position of law propounded by the Hon'ble Apex Court as well as by this Tribunal in various cases (BALBIR KAUR AND ANOTHER VRS. STEEL AUTHORITY OF INDIA - 2002(2) ATT(SC-255); RANKANIDHI SAHU VRS. UNION OF INDIA AND OTHERS - 2002(2) 1 CJD(AT -21; and MINA KUMARI MOHANTY AND ANOTHER VRS. UNION OF INDIA AND OTHERS-(1994) 2 ATT (CAT) 120). Therefore, both the grounds basing on which the grievance of the Applicant was turned down, are not sustainable in the eye of law.

6. We are conscious that compassionate appointment is not a matter of right. But at the same time we are duty bound to dispense even handed justice without putting similarly placed persons in discrimination, when the object for compassionate appointment is to tide over the sudden financial crisis caused due to death of the sole bread earner of the family. In the said premises, we find considerable force in the submission of the learned counsel for the Applicant and, accordingly, we quash the order of rejection under Annexure-6 dated 08-08-2000 and, as a

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consequence, the Respondents are hereby directed to reconsider the case of the Applicant for providing compassionate appointment, by taking into consideration the observations made above, within a period of 90 (ninety) days from the date of receipt of a copy of this order.

7. So far as the prayer of the Applicant (for quashing the appointment order dated 23.3.2001) , we would like to observe that the Applicant has no right to be appointed in a particular post/place. In this view of the matter we are not inclined to interfere with the order of appointment dated 23.3.2001 issued in favour of the Respondent No.4. In the result, this Original Application is allowed in part. There shall be no order as to costs.


(B.N. SOM)
VICE-CHAIRMAN


05/12/2003
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)