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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.645 OF 2000
Cuttack this the 15th day of July/2002

CORAM:

THE HON'BLE SHRI MANORANJAN MOHANTY, MEMBER (JUDICIAL)

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1. Sri Karunakar Das, aged about 63 years,
S/o. Late Aparti Das, Ex-L.I.(O), Cuttack
Telecom District, Cuttack
2. Amiya Kumar Das, aged about 30 years,
S/o. Karunakar Das of village:Rahamba,
PO: Postal, Dist - Cuttack

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Applicants

By the Advocates

M/s.G.Rath
S.Misra
T.K.Praharaj

-VERSUS-

1. Union of India represented through its Secretary
Telecommunications, Department of Telecommunications,
Sanchar Bhawan, 20 Ashok Road, New Delhi - 110 001
2. Chief General Manager, Orissa Circle, Bhubaneswar,
Dist - Khurda
3. Assistant Engineer (HRD) Circle Office, Bhubaneswar,
Dist - Khurda

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Respondents

By the Advocates

Mr.A.K.Bose,
Sr.Standing Counsel
(Central)

O R A A L
ORDER

MR.MANORANJAN MOHANTY, MEMBER (JUDICIAL): Heard the Advocate
for the Applicant and Shri A.K.Bose, Sr. Standing Counsel
appearing for the Respondents and perused the pleadings.


2. In this Original Application under Section 19 of the
Administrative Tribunals Act, 1985, Applicant No.1 (father of
Applicant No.2) prays for direction to Respondents to provide
an appointment under Rehabilitation Assistance Scheme to
his son, Amiya Kumar Das (Applicant No.2) by quashing Annexure-8
dated 8.12.1994; wherein the Circle High Power Committee

has rejected the prayer of the Applicants for such appointment, on the ground that the financial condition of the Applicants' family is not indigent.

2. Respondents/Department have filed their counter opposing the prayer of the Applicants.

3. The sole point for consideration is as to whether the condition of the Applicants' family is indigent or not. As it appears from Annexure-7 dated 16.2.1994 (Inquiry Report), out of which the impugned order dated 8.12.1994 (Annexure-7) rejecting the prayer of the Applicants for compassionate appointment has been emanated is based on the only point that the family is not indigent, because of Applicant No. 1 having been granted an amount of Rs.80,000/- towards terminal benefits due to his premature retirement on the ground of medical invalidation. Besides, the Applicant No.1 is in receipt of pension amounting to Rs.1650/- per month. These very two grounds showing the family to be not indigent and, therefore, Applicant No.1's case was not recommended for compassionate appointment are the precise and specific stand of the Respondents/Department which have given rise to a cause of action to the Applicants for approaching this Tribunal with the prayers as aforesaid.

4. It would be worthwhile, for the purpose of determining condition of as to whether the Applicants' family is really indigent or not, and resultantly whether the Applicant No.1 deserves an appointment on compassionate grounds, to resort to the following decisions:-

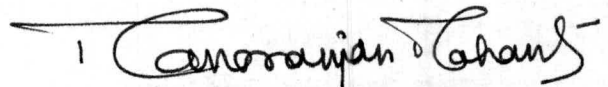
1. Balbir Kaur & Another vs. Steel Authority of India Ltd. & Ors. reported in 2002 (2) ATT (SC) 255
 2. Ranka Nidhi Sahoo vs. Union of India & Ors. reported in 2002 (2) 1 CJD (AT) 21
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3. Mina Kumari Mohanty & another vs. Union of India and Ors. reported in (1994) 2 ATT (CAT) 120

The Hon'ble Supreme Court in the case of Balbir Kaur following this decision, (Supra) as well as the Tribunal/in the cases of Ranka Nidhi Sahoo and Mina Kumar Mohanty (Supra) observed that neither the terminal benefits nor the family pension can be the criterion to determine the indigent condition of the family and directed the appropriate Departments to provide compassionate appointments accordingly.

5. In view of the aforesaid discussions, I do not find any justifiable ground to take a different view from the views already taken by the Hon'ble Supreme Court as well as the Tribunal in the aforementioned cases. In this view of the matter Respondents/Department are directed to give a fresh look into the matter and accordingly provide ^a compassionate appointment in favour of Applicant No.2 (Amiya Kumar Das). Accordingly, Annexure 8 - 8.12.1994 is hereby set aside and quashed.

6. Thus the O.A. is allowed, but without any order as to costs.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

15/07/2002

B.K.SAHOO/