

O.A. NO. 234/2001

ORDER DATED 23-05-2002.

The father of the Applicant, while working as Atharbanki Railway Colony S.O., Extra Departmental Mail Carrier (in short E.D.M.C.) died in harness on 03-09-1999, at the age of 50 years. It is stated that he was the sole bread earner of the family and left behind his widow, the present Applicant and other three sons and one daughter. He also belongs to Scheduled Caste Community. After the death of the father of the Applicant, the Applicant was allowed to work as substitute and thereafter, he was appointed to the said post on provisional basis, w.e.f. 4-9-1999. Thereafter, the case of the Applicant was placed before the Circle Relaxation Committee for consideration of the case of the Applicant for providing compassionate appointment on the face of the qualification of the Applicant, ~~and~~ ^{with} in Class-IV pass.

Since no tangible result had been received by the applicant, on his grievance for appointment on compassionate ground, the applicant ^{had} moved this Tribunal in O.A.No.264/2000 for a direction to provide him employment on compassionate ground and, as an interim relief, he also prayed for a direction not to terminate his services as EDMC pending disposal of the said O.A. The matter was taken up on 31.5.2000 and it was directed to issue notice to the Respondents and, as an interim relief, it was ordered that till receipt of the decision from the Circle Relaxation Committee, the services of the Applicant

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shall not be terminated. On the face of the said order rendered in O.A.No. 264/2000, on 31-5-2000, the Circle Relaxation Committee, Orissa rejected the claim of the Applicant, on 16-3-2001, on the ground that the applicant does not possess required educational qualification. The said decision of the Circle Relaxation Committee was communicated to the Applicant vide letter dated 4-4-2001 at Annexure-R/5.

Having heard the Advocate for the Applicant and Mr. S. Behera, learned Additional Standing Counsel (Central) appearing for the Respondents, it is crystal clear that the family of the deceased is in indigent condition due to the death of the sole bread earner of the family. The concept of providing compassionate appointment to one of the members of the deceased Government servant is to redeem the family from the distress caused after the death of the sole bread earner of the family. The deceased employee left behind five members in the family. One of the important aspect of the matter is that the Government have not framed rules for getting pension/family pension to the EDAS. As such, the indigent condition/distress condition of the family of the deceased is taletel on the family size left behind.

For appointment to the post of EDDA/EDMC the required qualification as postulated in the rules/
no doubt
instructions issued by the Department is/class VIII pass. Applicant passed Class IV. But he was allowed to work as substitute and, later, on provisional basis and there is also no whisper in the counter about the deficiency

of the performance of the Applicant in his day to day work as EDMC. From the order of rejection at Annexure-R/5, it does not show that this aspect of the matter has been taken into consideration while rejecting the claim of the Applicant for appointment on compassionate ground. No opportunity had also been given by the Committee, while rejecting the candidature of the Applicant on the ground of lack of required educational qualification. Had an opportunity been given to the Applicant, as stated by the learned counsel for the applicant, the applicant, apart from the above facts, would have substantiated his grievance for getting the compassionate appointment in view of the letter issued by the DG(Posts) No.17-366/91-ED & TRG, dated 12-3-1993 which provides as follows:-

“(3) The local authorities will encourage the dependents appointed as EDAs in relaxation of the minimum educational qualifications to attain the prescribed minimum educational qualifications”.

On a bare reading of this, it goes without saying that the authorities have the power to appoint to the post of EDAs in relaxation of the minimum educational qualifications. In the said premises, the matter is remitted back to the Respondents, in quashing the order/letter dated 4-4-2001, at Annexure-R/5 with a direction to reconsider the case of the Applicant, afresh, taking into consideration the points raised and discussed above, for providing compassionate appointment, sympathetically, in relaxing the minimum educational qualification of the Applicant, within a period of 30 days

from the date of receipt of a copy of this order. While doing so, the Respondent need give some time to the Applicant to obtain higher qualification and, finding that, Compassionate employment need be given to him.

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In the light of the discussions made above,
this Original Application is allowed. No costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 23/05/2002

KNM/CM.

Later

The Advocate for the Applicant is directed to file postal requisites, for service of copies of this order on the Respondents, by 31.05.2002. Free copies of this order be supplied to the Advocate for the Applicant & to the A.S.C.

Lab.
23/05/2002