

11. ORDER DATED 4th July, 2002.

The Applicant while working as Rest House Attendant at Katani, under the Respondents, took voluntary retirement on medical grounds on 9.3.1999. After retirement on medical grounds, as per the instructions framed by the Government, the Applicant applied for providing compassionate appointment in favour of his son Ashok Kumar Roy. His prayer having been rejected by the Circle Relaxation Committee, he has come up in the present Original Application with a prayer to quash letter dated 31.5.2000 at Annexure-2 rejecting his claim for providing compassionate appointment/communicating the decision of the Circle Relaxation Committee and for a direction to the Respondents to provide compassionate appointment to his son Shri Ashok Kumar Roy.

2. Respondents have filed their counter interalia stating the grounds for rejection of the prayer for compassionate appointment in favour of the son of the Applicant. Since the order/letter of rejection, if any, communicated to the Applicant, has not been produced by either parties, it is not known as to whether the grounds urged in the counter by the Respondents, have been intimated to the applicant. However, the Circle Relaxation Committee took into consideration four grounds for rejecting the claim of the applicant for providing compassionate appointment to his son which runs thus:

- i) The family got a terminal benefit of Rs.109017/- on invalid retirement of the ex-employee;
 - ii) The ex-employee is getting pension of Rs.1746/-p.m.;
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- iii) There are three major sons in the family and they are earning independently;
- iv) There is no liability of any minor on the family.

Having heard learned Counsel for the Applicant and Mr.S.Behera, Learned Additional Standing Counsel(Central) and perused the records, it appears that while considering the case for providing compassionate appointment to the son of the Applicant, the C.R.C. took into consideration the terminal benefits/pensionary benefits given to the father of Shri Ashok Kumar Roy for determination of the indigent condition of the family; which they should not have done in view of the settled law in the case of BALBIR KAUR AND ANOTHER VRS. STEEL AUTHORITY OF INDIA (reported in 2002 (2)ATT(SC) 255), of RANKANIDHI SAHU VRS. UNION OF INDIA AND OTHERS (reported in 2002(2)1 CJD(AT) 21) and of MINA KUMARI MOHANTY AND ANOTHER VRS. UNION OF INDIA AND OTHERS (reported in (1994) 2 ATT(CAT) 120) that while computing the indigent condition of the premature retirement/deceased families, the amount given as terminal benefits should not be taken into consideration. With regard to ground No.(iii), it has been submitted by the learned Counsel for the Applicant that the Applicant have three sons and two daughters alongwith his wife. But two sons are maintaining their own families with their own income and residing separately. Applicant's only son Ashok Kumar Roy is living with the applicant and looking after him. Learned Counsel for the Applicant places reliance on the Director General, Posts' letter No.17-85/93-~~EB~~ & Trg., dated the 2nd

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February, 1994 which provides as follows:

"(4) In certain cases where there is already an earning member in the family but Huddia/Sarpanch or an MP/MLA certified that the employed member is living separately and not rendering any financial assistance to the main family, the requests for compassionate appointments may be entertained and considered on merits. In certain cases, the literate dependants/near relatives are neither employed in Government service nor somewhere else but are engaged in cultivation, etc., and not supporting the family of the deceased ED Agent, requests for compassionate appointment in such cases can be entertained".

Basing on the above circular of the Director General of Posts, it has been submitted by the Advocate for the Applicant that since there was no opportunity given to the Applicant, to place records with regard to the fact that two sons are living separately, he had not produced any such certificate from the above persons. With regard to ground no. (iv) it has been stated by the Advocate for the Applicant that there is no mention in the rules/instructions of the compassionate appointment that only in the case where liability of any minor on the family is there compassionate appointment will be provided and as such in the absence of such proposition, the ground as taken by the Respondents is not sustainable in the eye of law.

In view of the above settled laws and on being carefully considered the rival submissions of the parties, it is evident that the case of the applicant for providing compassionate appointment to his son, has not been considered by the Respondents properly with due opportunity to him. In the said premises, the matter is remitted back to the Respondents

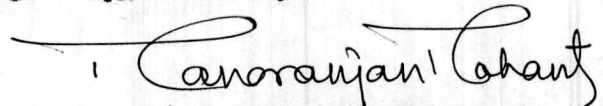
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to reconsider the matter afresh for providing compassionate appointment to the son of the Applicant giving due opportunity to the applicant to substantiate his stand that two sons are living separately. The entire process should be completed within a period of 90 (ninety) days from the date of receipt of a copy of this order.

With the above observations and directions, this Original Application is disposed of. No costs.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 04/07/2002

KNM/CM.