

08. ORDER DATED 10-04-2002.

Applicant's father while working as Jamadar under the Respondents breathed his last on 25.10.1996 prematurely leaving behind his widow, two sons and one daughter. On 20th April, 1997, the mother of the Applicant approached the Respondents to provide an employment to one of her sons (Applicant) to remove the distress conditions of the family. The Applicant had also submitted a representation on 20th August, 1997 seeking an employment on compassionate ground which was forwarded to the Respondent No. 2 and Respondent No. 2 on 13-02-1998 sought comments of Respondent No. 4. The details having been furnished by the Respondent No. 4 on 7-7-99, with willingness of the Applicant and the Applicant having furnished an undertaking on 16.7.99, the matter was considered and the Respondents rejected the prayer of the Applicant on 21.9.99 and, as a consequence, the prayer for compassionate appointment has been turned down on the ground that a lump sum amount of retirement benefits have been given to the family and the mother of the Applicant is being provided with family pension. Another ground has also been taken for rejection of the prayer for providing compassionate appointment was that the Applicant was averaged being of 35 years old.

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2. In the counter, the stand given out under Annexure-1 dated 21.9.99 for rejection of the prayer of the Applicant has been supported.

3. Under the scheme for providing appointment under compassionate ground to a member of the family of the deceased Government servant is to mitigate the hardship and to remove the distress conditions of the family. It is not the case of the Respondents that save and except the lump sum terminal benefits given to the family and the family pension to the widow, there are any other sources of income of the family to mitigate such hardship due to the death of the bread earner, in the family. It is equally not the case of the Respondents that any of the sons of the deceased Govt. servant is gainfully employed to remove the distress conditions of the family - rather it is the case of the Respondents that though the Applicant was 35 years of old, yet, he is unemployed and sought for employment on the ground of compassion. That itself, shows that the family is in a distress condition. While computing the distress condition of the family, the Respondents have taken into consideration the lump sum benefits given to the family on the premature death of the Govt. servant and the family pension ~~is~~ being paid to the widow; which they ought not to have taken into consideration. Law is well settled that retiral benefits should not be computed towards determination of the distress conditions of the family of the deceased Govt. servant. In fact a scheme for providing appointment on compassion is an additional benefit

over and above the terminal benefits ordinarily provided in form of gratuity and family pension. In similar matter in the case of Rankanidhi Sahu vrs. Union of India & ors. in OA No.81/2001 decided on 06-03-2002 (reported in 2002 (1) CJD(AT) 21) has also taken the same view as in the present case. That being so, the grounds taken under Annexure-1, dated 21.1.99 to refuse the prayer of the Applicant to provide an employment on compassionate ground can not be sustained and is hereby quashed; after hearing the Advocate for the Applicant and Learned Senior Standing Counsel Mr.Bose, appearing for the Respondents.

4. In the aforesaid premises, the Respondents are directed to provide employment to the Applicant on compassionate ground by ignoring his averaged; notwithstanding the fact that a lump sum amount has been paid to the family as retiral benefits and the family pension provided to the widow of the government servant.

5. In the result, therefore, this Original Application is allowed.No costs.

*Manoranjan Mohanty*  
10/04/2002  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

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