

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 96 of 2001
Cuttack, this the 26th day of November, 2001

Diptilata Mallick Applicant

Vrs.

Union of India and others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? **Yes**.
2. Whether it be circulated to all the benches of the Central Administrative Tribunal or not? **No**.

S. Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
26.11.2001.

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.96 of 2001

Cuttack, 26th day of November, 2001

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Diptilata Mallick, aged about 27
years, D/o late Niranjan Mallick,
At/PO- Dhabasila, P.S-Nilagiri, Dist.Balasore...

.....Applicant

Advocates for applicant - M/s B.K.Panda, M.R.Khatua.

Vrs.

1. Union of India, represented through
Director~~x~~ General Research & Development,
Bharat Sarkar, Raksha Mantralaya,
Anusandhan Tatha Bikas Sangathan,
Karmik Nideshalaya (Karmik-09)
D.H.O-Dak Ghar, New Delhi-110 011.
2. Director &Commandant, Research & Development
Organisation, Proof & Experimental Establishment
P.O-Chandipur, Dist.Balasore

.....Respondents.

Advocate for respondents - Mr.S.B.Jena
ACGSC

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O R D E R

SOMNATH SOM, VICE-CHAIRMAN

S J MN.
In this O. A. the petitioner has prayed for a
direction to the respondents to consider her case for
compassionate appointment after quashing the order dated
18.9.2000 rejecting her prayer for compassionate appointment.

2. The case of the applicant is that her father was serving under Commandant, Proof & Experimental Establishment, Chandipur, Balasore and he passed away in harness on 14.3.1978 leaving behind widow and three children who were minors. Mother of the applicant was appointed on compassionate ground as Orderly on 10.8.1978. The mother of the applicant expired on 28.6.1979. At the time of death of the mother the family consisted of the eldest son, aged 7 years; the present applicant, the first daughter, aged 5 years, and the second daughter, aged 3 years. The applicant has stated that her elder brother applied for compassionate appointment after attaining majority, but no orders were passed granting compassionate appointment to him. The applicant is a Matriculate and knows typewriting. She applied on 3.5.1994 for compassionate appointment. Her application was forwarded, but ultimately in order dated 12.1.1998 (Annexure-6) her case was rejected. The applicant thereupon filed further representation and ultimately in order dated 9.11.2000 (Annexure-10) ~~xxxxxx~~ her request was turned down. In the context of the above, the applicant has come up with the prayer referred to earlier.

3. Respondents in their counter have opposed the prayer of the applicant on the ground that the mother of the applicant died in 1979 and the petitioner applied for employment on compassionate ground after fifteen years. It is further stated that the applicant's elder brother attained majority in 1990 and he applied for compassionate appointment on 1.9.1994, four years after attaining majority. It is further stated that the petitioner applied

✓ Jom.

for compassionate appointment on 4.5.1996 when she was more than 23 years old. Thus she had applied five years after attaining majority. As the applicant had come up after fifteen years of the death of the father and the family has managed all these times without compassionate appointment, it was considered that this was not a fit case for compassionate appointment. On the above grounds, the respondents have opposed the prayer of the applicant.

4. The applicant in ~~his~~ ^{her} rejoinder has stated that she did not apply earlier because she was hopeful that her elder brother would be given appointment. It is also stated that the decision of the Hon'ble Supreme Court in Umesh Kumar Nagpal's case relied upon by the respondents is not applicable in her case. It is stated that there is no departmental rule that compassionate appointment cannot be considered if application is made after a certain period and as no specific period has been indicated in the scheme, compassionate appointment is required to be considered in her case. With the above averments, the applicant has reiterated her prayer in the rejoinder.

5. I have heard Shri B.K.Panda, the learned counsel for the petitioner and Shri S.B.Jena, the learned Additional Standing Counsel for the respondents. Both the learned counsel have relied on the decision of the Hon'ble Supreme Court in the case of Umesh Kumar Nagpal v. State of Haryana, JT 1994(3) SC 525. This decision has also been perused by me.

6. From the above pleadings of the parties, it appears that the admitted position is that on the death of father of the applicant her mother was provided employment on compassionate ground. From this it is clear that on the death of the father the family was in financially indigent condition. The ~~maxx~~ mother of the applicant, who was provided with compassionate appointment, also passed away after ten months of getting the compassionate appointment. Thus, the fact that the family is in indigent condition is not in dispute. The other side of the picture is that the applicant's brother came up for compassionate appointment four years after attaining majority. The petitioner prayed for compassionate appointment five years after attaining majority and fifteen years after the death of her mother. Hon'ble Supreme Court in Umesh Kumar Nagpal's case (supra) have considered the scheme of compassionate appointment and have held that the purpose of providing compassionate appointment is for giving immediate succour to the family after the death of the Government employee while in service. In paragraph 6 of the judgment the Hon'ble Supreme Court have observed that compassionate appointment cannot be granted after a lapse of a reasonable period which must be specified in the rule. It is submitted by the learned counsel for the petitioner that as no period has been specified in the scheme for compassionate appointment after passage of which from the death of the Government servant compassionate appointment cannot be considered, the case of the petitioner is required to be considered. It is not possible to accept the above

proposition because in Umesh Kumar Nagpal's case the Hon'ble Supreme Court have clearly laid down that purpose of the scheme is to provide immediate help to the bereaved family and where the family has managed to live for many years without the benefit of compassionate appointment, such cases cannot be considered. It is no doubt true that in the scheme no specific period has been fixed. But in the instant case the applicant came up for compassionate appointment fifteen years after death of her mother and five years after she attained majority. As the family has managed to live for all these years without compassionate appointment, I hold that this is not a fit case where the applicant can claim consideration for compassionate appointment.

7. ~~Fix~~ In view of all the above, the O.A. is held to be without any merit and the same is rejected. No costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
26.11.2001

AN/PS