

ON NO. 149/03

NOTES OF THE REGISTRY

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Counter filed copy  
served.

for further orders.

Bench

11/8  
30/3/04

Order Dated 31.03.04

The Applicant Nalinikanta Padhy, a holder of Degree in Bachelor in Arts (With Economics) from Berhampur University has filed this Original Application under Section-19 of the Administrative Tribunal's Act, 1985 seeking a direction to the Respondents to provide him (Applicant) a compassionate appointment/employment in the Postal Department of Govt. of India.

2. Applicant's father, Simachal Padhy was in employment as the Sub Postmaster of Dharaket Sub Post Office under ~~the~~ Postal Division. Said sub-postmaster died prematurely, while he was in service, on 27.07.1999. The family of the said deceased got terminal benefits of Rs.5 lakhs. Applicant's father, Simachal Padhy left behind the following legal heirs:-

1. Khali Padhy (72) mother
2. Nirupama Padhy (41) Widow
3. Nalinikanta Padhy (18) Son
4. Sangeeta Padhy (16) daughter
5. Sanghamitra Padhy (11) daughter

The Applicant having obtained death certificate dated 16.08.1999 (Annexure-3) Legal heir certificate (Annexure-5) dt.28.9.99 and Income certificate (Annexure-4) dated 09.11.99) etc., filed an application ( before the Respondents) seeking an employment on compassionate grounds to over come the sudden zerk of the family ( caused due to premature death of the sole earning member/ sole bread earner of the family) and the said prayer (of the Applicant) having been turned down by the Circle Relaxation Committee ( under Annexure-7 dt.12.02.02), this Original Application has been filed.

3. The grounds set-forth by the Respondents/Circle Relaxation Committee (Under Annexure-7 dt.12.02.02) for rejecting of the prayer of the Applicant reads as follows:

- "1. The family has got Rs.5.00 lakhs

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pensionary benefit and also getting full pension.

2. Sufficient Income from landed property and no liability."

Thus, it appears that the Circle Relaxation Committee did not find the family ( of the Applicant/deceased Sub-Post Master) as an indigent one, because the family received Rs.5.00 lakhs as terminal benefit and has sufficient means of income from landed property. In the counter, filed by the Respondents, nothing else has been shown, which led the Circle Relaxation Committee to hold the family to be not indigent especially when the family consist of a very old lady and three growing up young persons. However, without giving any specification, it has been disclosed that the family had a monthly income of Rs.4,350/-.

4. Mr. K.C. Kanungo, Ld. Counsel appearing for the Applicant and Mr. J.K. Nayak, Ld. Addl. Standing Counsel appearing for the Respondents/Department having been heard and the material placed on record have been perused.

5. Law is well settled by now that the terminal benefits/pensionary benefits are not to be computed to find the indigent condition of the family. For the reasons of the Judgement of the Hon'ble Supreme Court of India ( rendered in the case of Balbir Kaur and another Vrs. Steel Authority of India Ltd and others reported in A.I.R.-2000 Supreme Court at Page 1596), the terminal benefits (granted to the family of the pre-maturely deceased Govt. servant ) are not to be computed to find out the indigent condition of the family. This Tribunal consistently taking the same view. In the case of Meena Kumari Vrs U.O.I and others ( reported in 1994(2) ATT CAT 12) and in the case of Rankanidhi Sahu, Vrs. U.O.I and others (reported 2002(1) C.J.D. (AT) 21), this Tribunal took the view that terminal benefit and pensionary benefits are not to weigh the minds of the authorities, while considering indigent

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condition in the case of providing compassionate appointment to the dependents of pre-maturely deceased Govt. servant. Since the Circle Relaxation Committee has rejected the prayer of the Applicant ( to provide him compassionate appointment ) on the finding that the family of the Applicant to be not indigent by taking into consideration the terminal benefits paid, the same is not sustainable.

6. The local Revenue Officer (Tahasildar) of Surada in the Dist. of Ganjam of Orissa) having certified that the family have got only Rs.2000-/ as annual income ( ~~from~~ out of 4 decimal of landed property; adjacent to the home ) the bold stand of the Respondents ( as taken in the counter) that the family has got a monthly income of Rs.4,350/- p.m. from land/agriculture is not sustainable. That apart the said income not being sufficient for a family of five persons, it is not understood as to how the C.R.C. of Postal Deptt. treated the family to be not indigent. It appears, the authority/Respondents have forgotten about the duties of the nation for the old-mother of the deceased and the 2 young daughters; who are first growing to be get married. The family needs protection under Article 21 of the Constitution of India; which factum, as it appears, may forgotten by the Circle Relaxation Committee of the Postal Department.

7. Therefore, the order of the Circle Relaxation Committee ( as communicated under Annexure-7 dt.12.02.2000) is hereby quashed and, as a consequence, the Respondents are hereby ~~xxi~~ called upon to reconsider the grievance of the Applicant ( to provide him a compassionate appointment) within a period of 90 days from the date of receipt of a copy of this order. This Original Application is accordingly allowed. No costs.

31/03/04  
MEMBER (JUDICIAL)

Copy of order dt. 31.3.04  
issued to the counsel  
for both side.

31/4/04  
S.O.

NY  
31/4/04