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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.123 OF 2002

29th
Cuttack, this the April, 2003

Rajendra Kumar Das Applicant

Vs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? ~
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? ~


(B.N.SOM)

VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

O.A.No. 123 of 2002

Cuttack, this the 29th day of April, 2003

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

.....

Rajendra Kumar Das

Aged about 32 years,

Son of late Govinda Chandra Das,

At Balipada, P.O. Sailo, Govindpur,

District Jagatsinghpur

Applicant

Advocates for applicant -

M/s Sanjib Mohanty,

P.K.Sahoo, P.K.Mohanty & S.N.Biswal.

Vs.

1. Union of India, represented through its Secretary, Department of Telecommunication, New Delhi.
2. Chief General Manager, Telecom, Orissa, At/PO Bhubaneswar, District Khurda.
3. Telecom District Manager, Cuttack Telecom District, At/PO/Dist. Cuttack.
4. S.D.O., Phoncs 1, Cuttack, At/PO/Dist. Cuttack

..... Respondents

Advocate for the Respondents - Mr.A.K.Bose, Sr.CGSC.

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

1. This Original Application has been filed by Shri Rajendra Kumar Das, son of late Govinda Chandra Das, who retired on medical invalidation on 18.3.1989, while working as Line Inspector under the Respondents. In the present Application, the applicant has prayed that his Application be admitted and the Respondents be asked to show cause why his case shall not be allowed and the Respondents should be directed to give compassionate appointment.
2. Short of details, the applicant's case is that on retirement on medical invalidation, the father of the applicant had approached the Department for appointment of his son (the applicant) on compassionate ground in order to support the family and save it from financial hardship. While the case of the applicant was pending consideration, the applicant's father died on 21.7.1991. The Respondents enquired into the financial condition of the applicant's family in June 1992 and placed the matter before the Circle High Power Committee on 1.1.1993. The said Committee did not approve the case of the applicant on the following three grounds:
 - i) The father of the applicant had retired on invalidation beyond the age of 55 years;
 - ii) The second son of the retired employee was already employed in the Department; and
 - iii) The financial condition was not indigent.

Thereafter the applicant's mother had approached the Union Deputy Minister, Communications, for re-consideration of the matter, whereupon the case was re-

examined by Respondent No.1 who submitted a report to the Deputy Minister, Communications, to the following effect:

"it is not permissible to consider compassionate appointment of Sri Rajendra Kumar Das as his late father did not have more than 3 years of service before his normal date of superannuation when he took invalidation retirement.

Accordingly, a final reply has been given to late G.C.Das on 24.9.91."

After having examined the matter at the level of Deputy Minister of Communications, the applicant had again approached the Director General, Telecom, in March 1992, but without any success (Annexure 1). Thereafter, vide Annexure 3, in 2001, he submitted another representation before the Chief General Manager, Telecom (Annexure 2) and after that he has now filed this Original Application.

3. The Respondents have refuted the claim of the applicant on the ground that as the father of the applicant retired, on medical invalidation, at the age of 56 years and eight months, when the age of retirement was 58 years of age, he was not eligible to ask for compassionate appointment of any of his children under the Scheme for compassionate appointment, because in terms of the provisions of the Scheme, in exceptional cases, if the condition of the family is indigent and is in a great economic distress, benefit of compassionate appointment may be extended to an eligible member of his family, provided the Government servant had retired on medical ground three years before attaining the age of 58 years. They have also pointed out that not only the family was not in indigent condition, but one of the sons of the Government servant was already in employment. They have also, relying on the judgment of the Hon'ble Apex Court in the case of Umesh Kumar Nagpal v. State of Haryana and others, (1994) 4 SCC 1, argued that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis on the death of the sole breadwinner. In this case, the retirement on medical invalidation took place in the year 1989. It is, therefore, hardly a case

where the family requires help to tide over any sudden crisis. The Welfare Officer of the Respondent-Department who carried out enquiry into the financial condition of the family, had observed that the family had about one acre of cultivable land and 10 decimals of homestead land and that on the homestead land, the family had built up a building consisting of 11 rooms. The Respondents had also objected to the consideration of the Application on the ground of limitation. Although I am not inclined to hold limitation against the applicant, but the fact remains that when his father took retirement on invalidation, he did not fulfill the three basic conditions for consideration of any member of the family to be offered compassionate appointment, firstly that he had not retired three years before attaining the age of 58 years (he retired attaining the age of 56 years and eight months), secondly that one of his sons was already in employment, and lastly that the family was not in great economic distress as it reveals from the report of the Welfare Officer that the family possessed one acre of cultivable land and a fairly large house to live in. As the applicant at the time of retirement did not fit in with the basic conditions for grant of benefit under the scheme, this O.A. is bereft of merit and accordingly dismissed.



(B.N. SOM)
VICE-CHAIRMAN

AN/PS

