

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dt. 9.2.2004

Counter has already been filed after service of copy. On the prayer of Ld. counsel for the applicant, adjourned to 19.2.2004 for filing of rejoinder.

[Signature]
9/2/04
REGISTRAR

Rejoinder has not been filed.

Ln
12/2

Regn

Dt. 19.2.04

The learned counsel for the petitioner prays for time to file rejoinder. Time granted till 10.3.04 for rejoinder as last chance.

[Signature]
19-2-04
REGISTRAR

on Memo

Rejoinder b.M., copy served.

For further order.

Ln
4/3

Bench

On. dt. 5.3.04

For Admission and Hearing.

Ln
9/3/04

Bench

Order dated.10.03.04

1. Applicant's father, Krushna Ch. Hota, died pre-maturely, on 01.08.93, while working as Group 'D' staff at kolkata G.P.O. His wife predeceased him. Said Krushna Ch. Hota, left behind his minor son (the Applicant named Bijay kumar Hota) and minor daughter Kadambini Hota. His other daughter Kaberi Hota (a major) married away among before his premature death of Krushna. As per the High School Certificate, granted by Orissa Board of Secondary Education, placed at Annexure-A/2; the date of birth of the Applicant Bijaya Kumar Hota being 09.07.1978; he was a minor at the time of pre-mature death of the Group 'D' official named Krushna Chandra Hota and the Applicant attended majority on 09.07.96. By that time he had passed H.S.C. Examination held in the month of April, 1993. On attending majority, the Applicant represented (on 31.12.97 and again on 17.09.98) seeking an employment on compassionate ground. A long 5 years thereafter, by their communication dated 28.01.2002, the Respondent- Department turned down the prayer of the Applicant, by which he sought for a

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	- 2 - compassionate appointment. In the said premises the Applicant filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985. 2. The reasons, for which the prayer of the applicant (seeking compassionate appointment) was turned down, has been elaborated in Annexure- A/5 dated 28.01.02; which reads as follows:- (a) The family consists of 2 members, one son and a daughter of the ex-official. (b) The family is in receipt of family pension @ Rs.550/- with DA & IR, which was revised; (c) The family has got own residential accommodation; (d) The family has landed property in Orissa, annual income from which property is Rs.18,000/- per year and (e) The ex-official died on 01.0.1993, but application for compassionate appointment was made on 17.09.98. The family somehow managed these days with the income of the property. This is a definite proof that the family may survive without compassionate appointment." 3. By filing a counter, the Respondents have made all attempts to support the rejection order/grounds set forth in the rejection order under Annexure A/5 dated 28.01.02. 4. Heard Mr. D.N. Lenka, Ld. Counsel appearing for the Applicant Bijoy Kumar Hota and Mr. A.K. Bose, Ld. Sr. Standing Counsel

PTO.

appearing for the Respondents and perused the materials placed on record.

5. In order to find-out that the family of deceased Krushna Ch. Hota to be not in distress condition, the Respondents have taken into consideration the payment of family pension at the @ Rs.550/- etc. into consideration. 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 AIR-2000 Supreme Court at page 1596), the terminal benefits (granted to the family of pre-maturely deceased Govt. servant) are not to be computed to find out the indigent condition of the family. This Tribunal is also consistently taking the same view. In the case of Meena Kumari Vrs. Union of India and others (reported in 1994 (2) ATT /CAT 12) and in the case of Rankanidhi Sahu Vrs. Union of India and others (reported in 2002 (1)) C.J.D (AT) 21); this Tribunal took the view that terminal benefits and pensionary benefits are not to weigh the minds of the authorities (while considering indigent condition of the family) while considering the case for providing compassionate appointment to the dependent of pre-maturely deceased Govt. servant. Therefore, the terminal benefits/family

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pension ought not to have been taken into consideration to find out the distressed condition of the family.

6. The family of any person having Rs.18,000/- as annual income, from landed property, not being sufficient in the present day market index; it is unfortunate that the Respondent Department has taken that into consideration to refuse a compassionate appointment.

7. ^{fact that the} The family has got a residential accommodation has been shown to be a ground to refuse compassionate appointment. ^{the fact that} But a person having a residential accommodation ought to have been considered as a healthy ground to provide him an employment in ED/GDS organization of Postal Department.

8. Delay in approaching for a compassionate employment has been shown as another ground to deny the benefit; but the delay having sufficiently been explained that could not have been a ground to refuse to grant the relief. The Applicant's father (Krushna Ch. Hota) died pre-maturely on 01.08.93. The Applicant attended majority on 09.07.96. Before that date (even before the date of death of the Group 'D' Official) the mother of the Applicant/ the wife of the deceased Group 'D' Staff died and the elder sister of the Applicant had

gone away from the family on marriage and therefore, the ground of delay taken by the Department is not sustainable; especially when the Department took long 5 years to communicate the refusal order under Annexure A/5 dated 28.01.02.

9. To state in a nutshell, the grounds set forth by the Department to reject the prayer of the Applicant to provide him a compassionate appointment is at-all not sustainable. The terminal benefits/family pension at the rate of Rs.550/- per month granted to the minor children ought not have been taken into consideration for the determination the distressed condition of the family. Income of Rs.18,000/- per year from landed property could not have been assessed as sufficient for the two young persons of the family. In the said premises the impugned order under Annexure A/5 dt. 28.01.02, not being sustainable, is hereby quashed and, while doing so, the Respondents are hereby called upon to give a fresh consideration to the grievance of the Applicant for providing him a compassionate appointment, if not against a departmental post, then as against an ED/GDS post.

10. With the aforesaid observation and direction, this O.A. is allowed but, in the peculiar

O.A. 474/03

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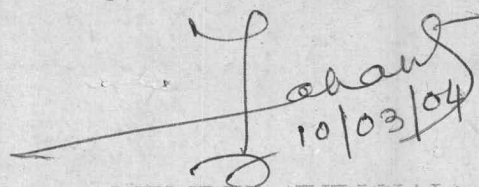
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Copies of order
dt. 10.03.04 prepared
for counsels for
both side.

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17/3

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circumstances of the case, parties are to bear their
own cost.


MEMBER (JUDICIAL)