

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Counter copy served  
for further orders.

By Registration  
30/3/04

Order dated 25.8.2004

Heard Shri A.K.Mohanty, learned counsel for the applicant and Shri B.Dash, learned Addl. Standing Counsel appearing on behalf of the Respondents and perused the materials placed on record.

The facts in brief are that the applicant, ~~who~~ is the widow of late Natabar ~~had~~ Das, Ex-P.A., Cuttack G.P.O., who expired on 1.1.1997. It has been disclosed by the applicant that immediately after the death of her husband, she had filed an application seeking compassionate appointment, which was also approved by the Respondents-Department. However, Senior Superintendent of Post Offices, Cuttack Division, although issued a letter dated 10.6.1999, offering appointments to all the candidates waiting for compassionate appointment, ~~ulatertion~~, by another letter dated 19.3.2001, he called upon the applicant to exercise her willingness to be appointed against any G.D.S. post under the Rehabilitation Assistance Scheme or willing to serve in any other Ministry of the Department, if vacancy was available there, but no appointment was given to her so far. Her name ~~was~~ all along remained in the waiting list. It is in this backdrop of the facts, the applicant has prayed for direction to be issued to the

Order at 1.4.04  
On the prayer of Learned Counsel for the applicant, time is granted till 29.5.04 to file rejoinder.

By Registration  
15/5/04  
REGISTRAR

Rejoinder not filed

By Registration  
5/6/04

Respondents to give appointment in favour of her son under compassionate appointment scheme

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Order at 6.7.04

Parties are absent on call. No steps taken by the applicant to file rejoinder even after awaiting sufficient opportunity. It is presumed that he has no rejoinder to file. Pleadings are therefore deemed to be completed.

List this matter before Bench on 14.7.04 for final hearing.

Done

6/7/04

REGISTRAR

For adjournment and hearing.

Bench

By  
13/7/04

For adjournment and hearing.

M  
20/7/04

Bench

Copy to order off 21/7/04 issued to the counsel for both side.

Jh  
S.C. 20/7/04

either against any regular post in the Post office or against any post of Gramin Dak Sevak.

The Respondents in their counter while refuting the facts of the case, have stated clearly that the appointment was subject to availability of vacancy in Group-D cadre under compassionate quota. Although they had asked for willingness for appointment in any other Ministry of the Department or ~~any~~ against any G.D.S. appointment, she did not avail of the opportunity offered to her.

Instead of exercising her option, the applicant ~~now~~ informed the Department vide her letter dated 8.2.2002 to consider appointment in favour of her son, Debendra Das, in the Department as he had attained majority. They have, however, denied that such a representation was ever received by them and even if that representation had been received, it would not have been possible for them to consider such request formally as ~~per~~ the scheme does not provide the compassionate appointment to be a transerable one. The learned counsel for the applicant has repeatedly submitted during oral argument that having regard to the economic condition of the family of the deceased Govt. servant, a sympathetic view ought to be taken in this matter. In reply to this, the Respondents have drawn my notice to the judgment of the Hon'ble Apex Court in the case of LIC of

India Ltd. vs. Mrs. Asha Ranachandra Ambekar

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6  
m.A.537/03 for  
restoration. Copy  
not served. on memo.

Bench

By  
9/8/03

for adjournment and  
hearing.

Bench

By  
20/8/03

Copy is ready of 20/8/03  
issued to the Counsel  
for both side.

W/31/03  
SD

W  
30/8/03

reported in JT 1994(2) SC 113, wherein it has been held that the Courts/Tribunals should not direct compassionate appointment on the ground of sympathy having disregard to instructions of the law on the subject. Respondents have also argued, relying on the judgment of U.K.Nagpal case that a compassionate appointment cannot be asked as a matter of right and definitely Govt. job does not run successively in a family hierarchy.

The law pronounced by the Apex Court in Asha Ramachandra(*supra*) precludes me to take a view outside the scheme provision for the purpose of compassionate appointment. The fact of the matter in this case is that death of the Govt.servant took place on 1.1.97. The widow could not be appointed although approved for appointment due to lack of vacancy under compassionate quota and that the applicant was not also willing to be considered <sup>in any other category</sup> for compassionate appointment and this is how she did not exercise her option for appointment against G.D.S. post. For all these reasons, there is hardly any scope for judicial intervention and accordingly, the O.A. being devoid of merit is dismissed. No costs.

VICE CHAIRMAN  
23/8