

13
O.A.NO.706/2003

Order dated 2.12.2005

One Saktidhar Dash, while working as Sub Post Master, Chandikhol, died prematurely on 10.04.1995, leaving behind two widows, two sons and one daughter through 2nd widow. There was dispute relating to payment of terminal benefits; for which two litigations were filed before this Tribunal during 1996 (O.A.NoS.370 AND 384 OF 1996) and those cases were disposed of on 27.3.1997. While disposing of those two O.As, this Tribunal directed the Department to consider the case of the distressed family of late S.K.Das for providing an employment on compassionate ground either to the first widow or to the daughter of the 2nd widow. This order dated 27.3.1007 was the subject matter of chellenge before the Hon'ble High Court of Orissa in a Writ Petition (O.J.C.No.7433/97) disposed of on 11.8.1998. A copy of the said judgment of the Hon'ble High Court, virtually confirming the orders of this Tribunal, has been filed by the Respondents as Annexure-R/4. Only after disposal of the Writ

Petition by the the Hon'ble High Court of Orissa (on 11.8.1998), the Circle Relaxation Committee of the Postal Department considered the case of the first widow and the daughter through the 2nd widow of late S.K.Das for providing a compassionate appointment. By that time the present applicant, the son of late S.K.Das through the 2nd wife, had attained majority; ~~being~~ his date of birth ~~as~~ ^{being} 19.9.1981. Although both the ladies (first widow and the daughter through the 2nd widow of late S.K.Das) intimated the departmental authorities/CPMG/CRC to consider the case of the present applicant for providing him an employment on compassionate ground, the Department was rigid and considered the case of the two ladies only in terms of the order dated 27.3.1997 of this Tribunal. The C.R.C, in consideration of the matter for compassionate appointment, rejected the case of both the ladies on the following grounds:

- a) The case is more than five years old;
- b) The case is not of immediate assistance;
- c) Terminal benefits of Rs.97,000/- and pension of 2061 + D.R. received by the family;
- d) Because terminal benefits of Rs.4,96 lakh and pension of Rs.3400+ D.R. is being received by the family ^y

For the aforesaid reasons, the C.R.C. of the Respondents Organization considered the case to be of no indigence and, accordingly, did not take into consideration the case of both the aforesaid ladies for providing compassionate appointment. It appears from the minutes of the CRC held on 21.11.2001 that the case of both the aforesaid ladies did not receive final consideration at all.

2. Having heard Shri S.B.Mohanta, learned counsel for the applicant and Shri U.B.Mohapatra, learned Sr.Standing Counsel representing the Respondents and on perusal of the materials placed on record, it is seen that the reasons for which the case for compassionate appointment (of the two ladies) was rejected is non est in the eye of law in view of the decision rendered by the Hon'ble Supreme Court in the case of Balbir Kaur & another vs. Steel Authority of India Ltd. And Ors. 2002(2) ATT(SC) 255 and the decisions of this Bench rendered in the cases of Ranka Nidhi Sahoo vs. Union of India & Ors. 2002(2) 1 CJD (AT)21 and in Mina Kumari Mohanty and another vs. Union of India & Ors. (1994) 2 ATT (CAT) 120 holding that the terminal benefits cannot be computed for the purpose of determining indigent condition while considering the case for providing an employment on compassionate ground. In this

view of the matter the decision taken by the Respondents/CRC that the family of late S.K.Das is not indigent is not ~~en regio~~ ^{sustainable}.

3. While overruling the objection of the Department (which was communicated to the parties on 21.1.2002) under Annexure-A/3 and asking the respondents to reconsider the matter with a view to providing compassionate appointment to the family of late Das, the Respondents are hereby directed to take note of the fact that both the aforesaid ladies (first widow and the daughter of the 2nd widow of late Das) have already placed on records the materials in favour of the present applicant (the son of late Das, through 2nd wife) who attained majority in the meantime and consider his case for providing

compassionate appointment ~~to the present Applicant. Delay due to litigation should not have been a ground to reject the Case.~~

4. In the counter filed by the Respondents on 19.9.2001, the

Department had raised some technical objections. But those are not available to stand the judicial scrutiny; because those objections are based on instructions issued subsequent to the date of death/prayer for compassionate appointment. The Respondents are now to consider the case of the applicant for providing en employment on compassionate ground, which should be considered as expeditiously as possible; ~~preferably~~ ^{within 120 days}

5, With the observations and directions as aforesaid, this O.A. is disposed of.

Send copies of this order to the applicant as well as ~~to~~ Respondents in the given address and free copies of this order be handed over to the learned counsel of both the sides.

J. S. Ahluwalia
02/12/05
MEMBER(JUDICIAL)