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O.A.NO.186 OF 2002

ORDER DATED 02-01-2003.

None appears for the Applicant. A counter has been filed in this case and the Applicant has chosen himself not to file any rejoinder thereto. In the said premises, this case is taken up for final disposal with the aid and assistance of Shri A.K.Bose, learned Senior Standing Counsel for the Union of India, appearing for the Respondents.

Narottam Majhi, a Group 'D' staff of Jharsuguda Head Post Office died prematurely while still in active service leaving behind his family consisting of the widow and two sons. The second son of the deceased Manoranjan Majhi (present applicant) had filed an application seeking compassionate appointment. The said prayer of the applicant having been rejected by the Circle Relaxation Committee of the Postal Department, he has filed the present Original Application, under section 19 of the Administrative Tribunals Act, 1985.

On perusal of the records, it is revealed that the C.R.C., while rejecting the claim of the Applicant (for providing compassionate appointment) under Annexure 4 dated 25.1.2002, had taken into consideration the following two grounds:-

1. The family has got Rs.82,318/- as terminal benefit and also getting family pension Rs.1275/- + DR p.m.;
2. One son is employed and there is no liability.

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Contd...Order dt.2.1.2003.

for the reasons of the Judicial pronouncements made in the case of BALBIR KAUR AND ANOTHER VRS. STEEL AUTHORITY OF INDIA (reported in 2002(2)AT(Sc) 255) ; of RANKANIDHI SAHU VRS. UOI AND OTHERS (reported in 2002 (2)1CJD(AT) 21) and of MINA KUMARI MOHANTY AND ANOTHER VRS. UNION OF INDIA AND OTHERS (reported in (1994) 2(AT) 120) that while computing the indigent condition of the prematurely retired/deceased families the amount given as terminal benefits should not be taken into consideration, the first grounds taken by the C.R.C. in rejecting the claim of the Applicant for providing compassionate appointment is not sustainable in the eye of law. Hence the same is quashed.

As regards the second ground that one of the sons of the deceased is gainfully employed elsewhere and apparently, therefore, the CRC has found no liability to provide a compassionate appointment to the present applicant. In this connection, my attention has been drawn to the instructions issued by the Director General of Posts in Letter No.14-25/91-ED & Trg. dated the 5th August, 1993 which provides as follows:—

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4. In certain cases where there is already an earning member in the family but Huddia/Sarpanch or an MP/MLA certified that the employed member is living separately and not rendering any financial assistance to the main family, the requests for compassionate appointments may be entertained and considered on merits. In certain cases, the literate dependants/near relatives are neither employed in Government service nor somewhere else but are engaged in cultivation etc., and not supporting the family of the deceased ED Agent, requests for compassionate appointment in such cases can be entertained.

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In the present case, the Applicant has placed on record a document, under Annexure-6, from the local Sarpancha showing that Minaketan Majhi the first son of the deceased is living separately from the joint family. The said certificate apparently obtained by the Applicant after the decision of the CRC in the matter of providing compassionate appointment to the Applicant.

In the aforesaid premises, after overruling the first ground of rejection of the CRC, on the face of the document filed by the Applicant, under Annexure-6 dated 6-1-2002, this matter is remitted back to the Respondents/CRC to re-examine the matter afresh by entering into an enquiry as to whether the other son of the deceased Gr. D employee namely Minaketan Majhi is living separately from the deceased family members/widow by severing the relationship and, only after entering into such an enquiry, the Department should pass necessary orders in the matter. All the exercises, shall be completed within a period of three months from the date of receipt of a copy of this order.

With the above observations and directions, this Original Application is disposed of. No costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)
02-01-2003

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Copy of order dt. 2.1.03
issued to the Comsll
for both side

DBS
S. C.

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