

8

O.A.NO. 172 OF 2004.

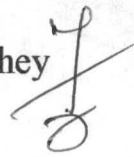
ORDER DATED: 25.04.2005.

Heard Mr. D.P.Dhalsamant, Learned Counsel appearing for the Applicant and Mr. U.B.Mohapatra, learned Senior Standing Counsel appearing for the Respondents and perused the materials placed on record.

Late Sukadev Panigrahi ^{ସୁକାଦେବ} was serving as a Group 'D' employee of the Postal Department of the Government of India, died prematurely on 19.12.2002, leaving behind the following legal heirs:

1. Smt. Premasila Panigrahi, wife (Applicant No.1)
2. Smt. Kalpana Hota, Dugther (married)
3. Smt. Bhagya Hota, Dugther (married)
4. Sri Jayananda Panigrahi, Son (Applicant No.2)
5. Smt. Suryakanti Padhi, Dugther.

It is the case of the Applicants that the deceased Sukadev Panigrahi was the sole bread earner of the family and as there are no landed properties the entire family were fully depending on the deceased Government Servant. By the time of the death of the Sukadev , he had three years to go in service; for his date of birth being 11.06.1945. The prayer of the Applicants (widow and son) of the deceased Government servant) to provide compassionate Appointment in favour of the son having been turned down under Annexure-A/7 dated 19.02.2004, they



9
have filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985. In the impugned rejection order under Annexure A/7 dated 19.02.2004, the following two reasons have been given out for rejection of the prayer to provide a compassionate appointment in favour of the Applicant No.2:-

- (a) The son of the deceased employee has become measure and there is no other liability;
- (b) There is no vacancy in the cadre of Postal Assistant cadre under compassionate quota.

By filing a counter, the Department has placed on record the proceedings of the CRC as Annexure R/1 dated 10-11.02.2004. The reasons given in the said Annexure R/1 dated 10/11-02-2004 is as under:

“The son has become measure and there is no liability”

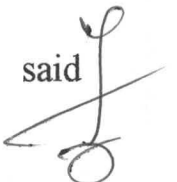
Since a person having become measure can only enter into Government Service, the reason that the son (Applicant No.2) has become measure is not sustainable. Since the family had no landed property of their own and as per the certificate granted by the Local Tahasildar (Annexure A/6 dated 21.01.1003), the family had no other source of income (other than the retrial benefits; which is not to be computed for determination of the indigent condition of the family; for the reason of the judgment of the Hon'ble Apex Court rendered in the case of BALBIR KAUR AND ANOTHER vrs. STEEL AUTHORITY OF INDIA LTD. AND OTHERS reported in 2002(2)ATT(SC) 255 and



10
of this Tribunal in the case of RANKANIDHI SAHOO vrs. UNION OF INDIA AND OTHERS reported in 2002 (2) 1 CJD (AT) 21 and in the case of MINA KUMARI MOHANTY AND ANOTHER vrs. UNION OF INDIA AND ANOTHER reported in (1994)2 ATT (CAT) 120. It is not understood as to how the Department has branded the case to be bereft of any liability. The widow of the Government Servant and also son are certainly passing their time in indigent condition and that is the liability which requires to be mitigated by the Department. Therefore, the objection that there are no liability as found by the CRC is hereby overruled.

Since the CRC has not disclosed non availability of vacancy in PA cadre, to deny the compassionate appointment to the applicant, such a reason (as has been given out in the impugned order under Annexure-A/7 dated 19.2.2004) is not sustainable.

Dependant of a prematurely died Government Servant seeks compassionate appointment and certainly he had no specific choice to get P.A. post or any other post. Therefore, while over ruling the objection given out in Annexure-A/7, the Respondents are hereby called upon to reconsider the case of the Applicant No.2 for providing him compassionate appointment and if not as a Postal Assistant, the case of the Applicant should be considered for providing him an engagement in Gr. D of the Department or against any ED posts. The said



11

reconsideration of the case of the Applicant No.2 should be made within a period of ninety days from the date of receipt of a copy of this order.

With the above observations and directions, this O.A. is disposed of. No costs.

Lalant
25/04/2005
MEMBER(JUDICIAL)

Copy of order dt. 25/4/05
issued to the counsel
for both side.

S. Q.

25/4/05