

Order dated 9.9.95

Heard Mr. P.K. Padhi, Ld. Counsel appearing for the Applicant and Mr. S.B. Jena, Ld. Addl. Standing Counsel appearing for the Respondent and perused the materials placed on record.

Sri Sadananda Jagat was serving as overseer Mails in the Postal Department of Govt. of India. He belongs to village Boda in the backward ~~in~~ Nuapada district of Orissa. It appears, he died prematurely, while still in service, on 6.4.93. It is alleged that he died of cancer; which factum, as it appears from the counter filed by the Department, was not known to his authorities in Postal department. Mr. Padhi, Ld. Counsel for the applicant states that the poor man (Sadananda Jagat) was being treated locally in the adjoining state of Chattisgarh. It is not known whether during his treatment he received the free allowance from the authorised medical officer. It is equally not known as to whether he got reimbursement of the expenses incurred by <sup>him</sup> him in course of his medical treatment. Mr. Padhi Ld. Counsel for the Applicant is also not in a position to throw enough light/to substantiate any of such claim. The premature death of said Sadananda Jagath (who was otherwise due to continue in service upto the end of May of 2010 to face normal superannuation from service) <sup>who left behind</sup> forced his widow and two major school/college going sons <sup>forced the family</sup> to claim for compassionate employment to ever come the distress condition of the family. It is the case of the Applicant (Kishore Kumar Jagath s/o late

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Sadananda Jagath) that in course of the treatment of Sadananda (for his cancer/kidney failure ailments) the family had to incur a heavy loan of about Rs. 3 lakhs; ~~and~~ which are yet to be cleared ~~up~~ by the distress family.

The claim of the distress family to provide a compassionate appointment to the applicant Sri Kishore Kumar Jagath having been turned down by the Circle Relaxation Committee of Orissa Postal Circle, the Applicant Sri Kishore has filed the present O.A. under Section 19 of the AT Act, 1985.

By filing counter the Department has pointed out that, no doubt, the family of the applicant is in distress but since more distress families were there (with claim of compassionate employment) the Circle Relaxation Committee decided to give compassionate appointment to most deserving case as against the 5% of vacancy.

In course of hearing of this O.A., Mr. Padhi, Ld. Counsel for the Applicant pointed out that, while ignoring the case of the applicant, the department extended the compassionate appointment benefits to one Sri S.K. Pradhan, S/o. Late R.K. Pradhan and to <sup>another</sup> ~~one~~ Sri Kedar Guru, s/o late B.D. Guru discriminatorily. In order to examine this aspect of the matter, this case had to remain part heard and the department was asked to produce the materials to show that there was really no discrimination.

Today Mr. S.B. Jena, Ld. Counsel for the Respondents-department produced the minutes of t

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Circle Relaxation Committee. Relevant portion of which brings as under:

"Sri Sudhir Kr. Pradhan, son of late R.K. Pradhan, Ex-APM A/Cs, Keonjhar H.O. The family has the liability of widow and education of two minor sons and applicant himself. The official died due to a fatal accident at the work place in Keonjhar H.O. Hence deserves special consideration."

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"Under this category 20 cases as per Annexure-III were considered. The case of Sri Kedar Guru, son of late B.D. Guru, Ex-ASP (Invn) C.O. has been approved. The liability of the family consists of maintenance of widow, education of one minor son and one unmarried daughter apart from the applicant. Sri B.D. Guru, Ex-ASP (Invn) C.O. died in a fatal road accident while on duty at Cuttack. Hence this case is being considered on special compassionate ground and approved."

The Circle Relaxation Committee considered the case of Sri Sudhir K. Pradhan to be a most deserving case for his father R.K. Pradhan died in an accident leaving behind the widow and two other minor sons. The Circle Relaxation Committee also considered the case of Kedar Guru S/o B.D. Guru to be most deserving one, than the case of the applicant, because B.D. Guru died in a road accident while still on duty at Cuttack leaving behind the widow and a minor son prosecuting education and one un-married daughter.

It appears the aforesaid two cases received special consideration in the peculiar facts and circumstances of the case and this Tribunal, not being an Appellate Authority, cannot say that the discretion <sup>was improperly</sup> exercised in favour of aforesaid Sudhir K. Pradhan and Kedar Guru was improper. A plain comparison of the case of the applicant with that of the Sudhir K. Pradhan

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and Kedar Guru gives an impression also that these two cases are more deserving than the case of the applicant.

Since it is the positive case of the department that [redacted] the other two cases were more deserving than the case of the applicant, these two persons Sarvasri Sudhir and Kedar were <sup>rightly</sup> given employment as against 5% vacancies approved for compassionate employment.

However while parting with the case, Mr. Padhi, Ld. Counsel for the Applicant has pointed out that the family of late Sadananda Jagat is in penury, because of the heavy loan incurred by the family for treatment of late Sadananda. As it appears Sadananda, a man of <sup>a</sup> backward village of nuapada of Orissa, did not find enough time to impress upon his authorities to get proper medical treatment in a proper manner; for which he had to be taken to some hospital in Chattisgarh and died prematurely without claiming any medical reimbursement. It is for the authorities of the Postal department to look to the said grievances of the applicant/Sadananda's family and, in exercise of the discretion, they may give post-facto approval to the treatments received by the Ex-servant Sadananda and reimburse some of the expenses of the cancer treatment as due and admissible under the rules. The applicant/ and the family of the Sadananda may, <sup>therefore</sup> move the higher authorities of the postal department to grant post-facto sanction for reimbursement of medical expenses of Sadananda

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Copy of Order may be sent to the applicant and to all Respondents in their address and may be given to both the Counsels.

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and, while parting with this case, it is expected that the authorities to do well in examining the said grievance of the family of late Sadananda and give necessary relief, as due and admissible under the rules.

With the aforesaid observation this O.A. stands disposed of without making any direction relating to compassionate employment.

Send copies of this order to the Applicant and to the Respondents in the address given in the O.A. and free copies of this order be also handed over to the Counsel appearing for both the parties.

Member (J)  
09.09.05