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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No.430 of 2004

B.S.G.Mohapatra Applicant
Vs
Union of India & Others Respondents

1. Order dated :15-11-2011.

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)
AND
THE HON'BLE MR. A.K.PATNAIK, MEMBER (JUDL)

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Heard. Perused the records.

2. The letter under Annexure-5 dated 2.3.2004 rejecting

the prayer of the applicant to provide him appointment on compassionate ground following the premature death of his father on 15.5.2002 while working as Postmaster Jaleswar Head Post Office has been challenged by the applicant in this OA. His ground of challenge is that the letter of rejection is a non-speaking one and issued without considering the indigent condition of the family which is a prerequisite condition as per the policy of the Government on the issue of employment on compassionate ground. Hence the contention of the Applicant is that as there has been miscarriage of justice caused to him in the decision making process of the matter and the impugned order under Annexure-5 may be quashed and further the Respondents may be directed to provide the applicant appointment on compassionate ground within a stipulated period.

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3. Respondents' contention is that appointment on compassionate ground cannot be claimed as a matter of right nor it can be claimed to be provided irrespective of the availability of vacancy and lapse of time from the death of the employee. However, it has been contended by the Respondents that that the case of the Applicant was placed before the CRC but the CRC did not recommend the case of the applicant due to want of vacancy, both the sons of the ex employee are grown up and as such there is no liability of the family and that at the time of death of the ex employee he was left with only 13 and half months service. Accordingly, Respondents have prayed for dismissal of this OA.

4. By following the decisions of the Hon'ble Apex Court, this Tribunal has held in many cases that there should be no departure from the general rule regarding public employment except under compelling circumstances such as death of the sole bread earner and the livelihood of the family suffering as a consequence. Once it is proved that in spite of the death of the bread earner, the family (has) survived and a substantial period is over, there is no necessity to ignore the normal rule of appointment and to show favour to one at the cost of several others, ignoring the mandate of Article 14. The Tribunal should not confer benediction impelled by sympathetic

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consideration to make appointments on compassionate grounds when the regulations did not cover and contemplate such appointment. The appointment on compassionate ground cannot be a source of recruitment. The object is to enable the family to get over the sudden financial crisis. Such appointments have, therefore, to be made in accordance with rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.

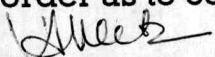
5. On scrutiny of the order of rejection under Annexure-5 with reference to the pleadings of the parties we find no infirmity in the said order of rejection and necessarily, the question of quashing the above order does not arise. The object of providing appointment as already stated is to enable the family to get over the financial crisis caused to the dependent members of the family after the death of the sole bread earner of the family. Therefore, such appointments have to be made in accordance with Rules, Regulations or Administrative instructions taking into consideration the financial condition of the family of the deceased. On going through the DOP&T instruction dated 05.05.2003, we find the contention of the Learned Counsel for the Applicant that his case ought to have received consideration three times against available vacancies meant for the purpose instead of closing the


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matter in one consideration out come of which is the order under Annexure-5 merits consideration. This was the consistent view taken by this Tribunal in very many cases in the past also.

6. For the discussions made above, while holding that there is no infirmity in the order of rejection under Annexure-5, it is ordered that the case of the Applicant deserves consideration on two more occasions in terms of the DOP& T instruction dated 5.5.2003; which the Respondents shall do and convey their decision in a reasoned order.

7. This OA is accordingly disposed of. There shall be no order as to costs.


(A.K.PATNAIK)
Member(Judl.)


(C.R.MOHAPATRA)
Member (Admn.)