

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 559 of 2004
Cuttack, this the 20th day of June, 2005

G.Manga Raju Applicant
Vs
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not ? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

M.R. Mohanty
20/06/05
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
(B.N. SOM)
VICE-CHAIRMAN

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Original Application No. 559 of 2004
Cuttack, this the day of June, 2005
20th

CORAM :

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER (J)

.....

G. Manga Raju, aged about 31 years, S/o. G. Appa Rao,
presently residing at Kudiari, Khurda Road, At/P.O. Jatni,
Dist-Puri.

..... Applicant

By the Advocates

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M/s. A.Kanungo,
S.R.Mishra,
M.K.Biswal,
S.K.Kar.

VERSUS

1. Union of India, represented through its General Manager, East Coast Railway, Chandrasekharpur, At/P.O. Bhubaneswar, Dist-Khurda.
2. Chief Personnel Officer, East Coast Railway, Chandrasekharpur, At/P.O. Bhubaneswar, Dist-Khurda.
3. Divisional Railway Manager (Personnel), East Coast Railway, Waltair Division, Waltair.

..... Respondents

By the Advocate

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Mr. R.C.Rath(For R-1 & 3).

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN :

Shri G.Manga Raju, Son of G.Appa Rao, retired Railway servant has filed this O.A. being aggrieved by the inaction on the part of the Respondents in providing compassionate appointment to him. He has assailed the said attitude of the Respondents as hostile discrimination and being violative of Article 14 of the Constitution of India.

2. The case of the applicant is that his father, Shri G.Appa Rao , while working as Crane Driver under Sr. DME, Waltair on 20.10.99 met with an accident, as a result of which his left leg was amputated. His father, thereafter, applied for Voluntary Retirement being incapacitated by 70% and being declared unfit to work as Crane Driver. He was allowed to retire from service with effect from 19.6.2000. His father, thereafter, approached the Respondents for his appointment on compassionate ground but Respondent No.3 by his letter dated 18.3.2000 informed him that the request for compassionate appointment was not admissible in terms of the instructions of C.P.O./G.R.C. contained in Estb. Sl.No. 34/2000. On the other hand, the applicant has submitted that as per the provision contained in Estb.Sl.No. 34/2000, dated 14.2.2000, his father was entitled to request for appointment of one of his wards on compassionate ground. Further, referring to the Estb.Sl.No.35/02, dated 19.3.03, he has submitted that his father having been medically

decategorised between 29.4.99 and 18.1.2000 is also eligible for seeking benefit under the Compassionate Appointment Scheme.

3. The Respondents have, however, opposed the application, first, on the ground of limitation. They have stated that the father of the applicant was medically decategorised and recommended for an alternative job vide Medical Certificate dated 6/7.10.99. He attended screening test for an alternative job but he expressed his unwillingness to work further and took voluntary retirement. His application for voluntary retirement dated 19.6.2000 was accepted with effect from that date vide office order dated 18.9.2000. They have contested that the father of the applicant was not totally disabled to perform any work as per the materials available on record. They have submitted that in terms of Estb.Sl.No. 34/2000, if an employee who is declared medically unfit for the post he was holding, but fit to perform an alternative suitable job in lower medical category, the request for employment assistance on compassionate ground would not be admissible even if he chooses to retire from the service. Referring to Estb.Sl.No.193/2000, they have, further, argued that appointment on compassionate ground is to be extended only in cases where an employee has been medically decategorised before 29.4.99. They have also stated relying on Circular RBE No. 106/04, dated 26.5.04 that employment assistance on compassionate ground is admissible to the wards of medically decategorised employees who are medically decategorised between 29.4.99 and 18.12.2000

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and sought voluntary retirement on medical decategorisation but retired after 13.1.2000, with the personal approval of the General Manager on individual merit of each case. They have, further, submitted in their counter that in view of the recent circular of the Railway Board, the applicant may apply for employment assistance on compassionate ground in the prescribed form, duly filled in, enclosing thereto the relevant documents, whereafter, his case can be further examined for being put up before the General Manager, East Coast Railways, Bhubaneswar for his consideration on the merit of the case.

4. We have heard the Ld. Counsel for the rival parties and have perused the records placed before us.

5. The controversy, however, appears to have come to an end with the averment made by the Respondents at para-12 of the counter. We trust that the applicant will file an application accordingly ^{for} ~~to his~~ ~~positive~~ consideration. Before closing the matter we feel it necessary to clear one point that has been raised at para-7 of the counter where the Respondents have stated referring to Estb.Sl.No. 34/2000 that as the applicant's father was medically declared unfit for the post he was holding, but was found fit to perform an alternative suitable job in lower medical category, compassionate appointment was not admissible in his case. The applicant's father, admittedly, having been medically decategorised on 10.11.99, his case falls within the prescribed period for getting the benefit of employment

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assistance on compassionate ground as given in RBE No. 106/04 dated 26.5.04. He is also eligible, having been allowed to retire on voluntary basis by their order dated 18.8.2000. Thus, he fulfills the conditions for being eligible for employment assistance scheme as provided under RBE No.106/04. We, therefore, dispose of this O.A. with a direction to the applicant to apply for employment assistance on compassionate ground in the prescribed format as indicated in paras-12 & 13 of the counter filed by the Respondents. Accordingly, the O.A. succeeds and the same is disposed of.

No costs.

M.R. Mohanty
20/06/05

(M.R.MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
20/6/05
VICE-CHAIRMAN

KUMAR