

Order dated. 10.03.06.

Heard Mr. D.P. Dhalsamant, Ld. Counsel appearing for the Applicant and Mr. S.K. Patra, Ld. Addl. Standing Counsel appearing for the Respondents and perused the materials placed on record; including the Departmental file No.Vig/12-3/9 of the Office of the PMG/Berhampur Region of Orissa produce by the Ld. Addl. Standing Counsel.

2. Shri Dhaneswar Patnaik while serving as GDSMD of Koksara Sub-Post Office under the Supdt. of Post Offices/Kalahandi Division/Bhawanipatna died prematurely. His son Shri Tapan Kumar Patnaik (Applicant) had prayed (to the authorities) for providing him an employment on compassionate ground. The same prayer (of the Applicant) having been rejected by the Circle Relaxation Committee of Orissa Postal Circle, the Applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985.

3. By filing a counter, the Respondents have disclosed several reasons for not providing compassionate employment to the Applicant. This Tribunal, not being the Appellate Authority, has not examined the matter on merit of the reasons attributed by the Respondents.

4. In course of hearing, the Ld. Counsel appearing for the Applicant has pointed out that the Circle Relaxation Committee did not consider the case of the Applicant in the manner required under the guidelines and, therefore, the impugned rejection order was improper.

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5. In the above said premises, Ld. Addl. Standing Counsel was called upon to produce the concerned file and, accordingly, Ld. Addl. Standing Counsel has produced, to day, the Departmental file No.Vig/12-3/9 of the Office of the PMG/Berhampur Region of Orissa.

6. On perusal of the said Departmental File No.Vig/12-3/9 of the Office of the PMG/Berhampur Region of Orissa, it appears that a note was placed by ASP Vigilance on 03.06.04 before the Assistant Director (ST); who endorsed the file to place the matter before the Circle Relaxation Committee. The DPS, however, having made his negative endorsement on 04.06.04, placed the File before the Director (Finance); who just recorded an endorsement "not recommended" on 12.06.04 and, instead of placing the file before the PMG, he endorsed the file to the CPMG (on 17.06.04); who recorded findings as noted below on 19.04.04:-

"The family has no liability. The condition of the applicant is not indigent. Moreover, none of the family members were dependent on the deceased employee the case is, therefore, rejected".

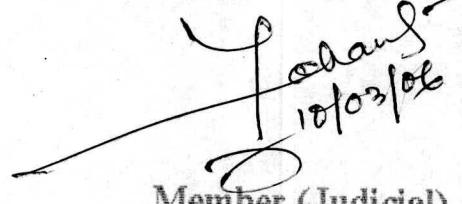
7. On perusal of the record (as noted above) it is seen that at no point of time the Circle Relaxation Committee sat together to consider the case of the Applicant; although it has been disclosed (at page 15 of the counter filed by the Respondent-Department) that " an application for appointment on compassionate grounds should be considered in the light of the instructions issued from time to time by the Department of Personnel and Training (Establishment Division) on the subject by a committee of officers consisting of the three officers – one Chairman and two Members – of the rank of Deputy Secretary/Director in the Ministry/Department and officers of equivalent rank in the case of attached and subordinate offices" and that "the committee may meet during the second week of every month" to

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consider cases received during the previous month" and that "the applicant may also be granted personal hearing by the committee, if necessary, for better appreciation of the facts of the case and that recommendation of the committee should be placed before the competent authority for a decision and that if the competent authority disagrees with the committee's recommendation, the case may be referred to the next higher authority for a decision."

8. Since the procedure prescribed by the Departmental Authorities (as noted in the previous para) have not been followed and since, at no point of time, the Circle Relaxation Committee sat together to consider the case of the applicant (as is seen from Departmental file); the order under Annexure-A/4 dt.01.07.04 is hereby quashed and the matter is hereby remitted back to the Respondents to place the case of the applicant before the Circle Relaxation Committee for giving a fresh consideration in the matter. The Circle Relaxation Committee; which shall meet to consider the case of the applicant; should grant personal hearing to the applicant in order to have his (Application) say in the matter. The Respondents should act promptly, in the matter, to complete the process within a period of 120 days.

9. With the aforesaid observation and direction, this O.A stands disposed of.

10. Send copies of this order to the Applicant and Respondents. Free copies of this order be also given to the Counsels appearing for both the parties.


Member (Judicial)