

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

22.07.02

Applicant is absent on call. Shri J.K. Nayak, Ld.ASC files one M.A. and prays therein for 04 weeks time to file counter. Heard. Time granted till 5.8.02 to file counter.

M.A. is disposed of accordingly.

22/7/02
REGISTRAR

Counter not filed.

hr.
2/8

Regn

05.08.02

The Applicant is absent on call. Shri J.K. Nayak, Ld.ASC files one M.A and prays for 04 weeks time to file counter. Heard. Time granted as a last chance till 19.08.02 to file counter.

M.A. disposed of accordingly.

21/8/02
REGISTRAR

Counter not filed.

2/8

Regn

02.09.02

The Applicant is absent on call. Shri J.K. Nayak, Learned ASC files one M.A. and prays for 4 weeks time to file counter. Heard. Since last chance is already availed by him, no further chance can be granted. Accordingly, The M.A. is rejected. Put up before the Bench for further orders.

2/9/02
REGISTRAR

Order dated 20.1.2003

Heard Shri S.P. Mohanty, learned counsel for the Applicant and Shri J.K. Nayak, learned Addl. Standing Counsel for the Respondents and perused the records.

Applicant's husband, Natabar Das (while working as Driver in the Office of the Superintendent of Post Offices, Cuttack (S) Division) died prematurely on 1.3.2000, leaving behind his widow (Applicant), three minor children and his 70 years old widow mother; as has been disclosed under Annexure-2 (Death Certificate) and in the Legal Heir Certificate (Annexure-3) issued by the Local Tahasildar. Applicant's prayer for a compassionate appointment having been turned down under Annexure-1 dated 23.01.2002, she has filed the present Original Application under Section 19 of the A.T. Act, 1985.

In the impugned order under Annexure-1 dated 23.1.2002, the Respondents/Circle Relaxation Committee found the Applicant's family to be not indigent, because it had received Rs. 56,724/- towards D.C.R.G. and family pension at the rate of Rs. 1,713/- + D.R. per month. Law is well settled in the cases of Balbir Kaur & another vs. Steel Authority of India Ltd. & Ors. reported in 2002 (2) A.T.T. (SC) 255, Rankanidhi Sahoo vs. Union of India & Ors. reported in 2002 (2) 1 C.J.D. (AT) 120 21 and Mina Kumari Mohanty & another vs. Union of India & Ors. reported in (1994) 2 ATT (CAT) 120 that terminal benefits cannot be computed for the purpose of determining the indigent condition.

In this view of the matter, the impugned order

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Counter has been filed. Copy of Counter has been served. For further orders.

for 17/2 Bench

Or. dt. 3.1.02

Rejoinder not filed for further orders.

for 17/2 Bench

On Memo

Rejoinder filed copy served

for admission & final disposal.

for Bench

Or dt. 20.1.03

copies of order communicated to all respds. and said copies of order handed over to counsel for both side.

for 30/1/03

for 30.1.03

(Annexure-1 dated 23.1.2002) is not sustainable and, therefore, the same is quashed/set aside.

In the counter filed by the Respondents it has been disclosed that there were about 34 candidates, as that of the Applicant, waiting for compassionate appointments and out of them the most deserving candidate had been provided with a compassionate appointment and since the Applicant was in a less distressed condition, than that of the candidate offered compassionate appointment, she was not provided with the compassionate appointment. The Respondents did not disclose the name of the 'most deserving candidate' who was provided with an employment on compassionate ground in preference over the present Applicant. However, the Applicant had disclosed in her rejoinder (filed on 28.20.2002) that one Pratima Swain, widow of late Bijaya Swain, was given compassionate appointment in preference to the Applicant and that said Pratima Swain received Rs.3,66,000/- towards gratuity, over and above an amount of Rs.3675/-^{paid} towards family pension, which she is receiving every month. It is not understood as to how the Respondents/Circle Relaxation Committee gave preference to aforesaid Pratima Swain visa-vis the present Applicant, who was only given Rs.56,724/- towards gratuity, besides family pension at the rate of Rs.1,713/- per month. If the statements of the Applicant in the rejoinder are taken to be correct (which has not been disputed by the Respondents through

any reply to rejoinder) then the Department/ Respondents/Circle Relaxation Committee could not have preferred Pratima Swain to be the "most deserving candidate" other than the present Applicant, ~~who~~ on whom three minor children and a widow mother-in-law are dependants. Therefore, the ~~action~~ of the Respondents, in not providing an employment, on compassionate ground, to the Applicant is nothing but arbitrary and discriminatory; which view is being taken prima facie.

In the aforesaid premises ^{and} the impugned order under Annexure-1 dated 23.1.2002 having been quashed/set aside, the Respondents are hereby directed to provide a compassionate (Group D Post) appointment/in favour of the Applicant (by granting necessary relaxation in qualification, if any,) within a period of three months from the date of receipt of copies of this order.

In the aforesaid terms, this O.A. is allowed, leaving the parties to bear their own costs.

Send copies of this order to Respondents and free copies of this order be made available to the counsels of both sides.

J. Chakraborty
20.01.2003
MEMBER (JUDICIAL)