

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 1298 OF 2004
CUTTACK, THIS THE 16th DAY OF November, 2005

Jayanta Kumar Behera.....APPLICANT

V S

Union of India & othersRESPONDENTS

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *Yes*

B. N. S. OM
VICE-CHAIRMAN

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 1298 OF 2004
CUTTACK, THIS THE 16th DAY OF November , 2005

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

.....
Shri Jayanta Kumar Behera, aged about 25 years, s/o. Late Sridhar Behera, Ex-Computer, Directorate of Census Operation, Orissa, Bhubaneswar, at present residing at Qr.No. 1, Satichoura Matha, At. Satichoura, P.O. Chandinichouk, Town/Dist.cuttack. Orissa.

.....Applicant.

Advocate(s) for the Applicant - M/s. S. Miskhra, S.K.Kar.

VERSUS

1. Union of India, represented through the Secretary, Ministry of Home Affairs, New Delhi.
2. Joint Registrar General, India, Office of r.G.A., 2-A, Mansingh Road, New Delhi-110011.
3. The Director, Directorate of Census Operation, Orissa, Janapath, Unit-9, Bhubaneswar, Pin-751022.
4. Assistant Dklirector, Office of the Directorate of Census Operation, Orissa, Janapath, Unit-9, Bhubaneswar, Pin-751022.
5. Deputy Director, Office of the Directorate of Census Operations, Orissa, Janpath, Unit-9, Bhubaneswar-751022.

.....Respondents

Advocate(s) for the Respondents - Mr A.Kanungo (A.S.C.).

J

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN:

Shri Jayanta Kumar Behera has filed this O.A. in second round of litigation seeking compassionate appointment under the Respondent Department.

2. The applicant, whose father was an employee of the Respondent Department had died while in service, had filed O.A.No. 240/03 on the same ground and the same was disposed of on 29.6.04 by the Single Bench of this Tribunal by its order dated 29.6.04 directing the Respondents to give due consideration to the grievances of the applicant within a period of 90 days from the date of receipt of that order and to give necessary relief to the applicant under the rules governing the field. The Respondents were also directed to consider the case of the applicant keeping in view the judgment of the Hon'ble Supreme Court in the cases of Y.V.Rangaiah and others vs. V.V.J.Srinivasa Rao and others (AIR 1983 SC 852) and P.Mahendran and others vs. State of Karnataka and others (AIR 1990 SC 405) as also the view expressed by the Hon'ble High Court of Orissa in the case of Gayadhar Sahoo vs. State of Orissa (OJC No. 811/1990) dated 26.4.91. The allegation of the applicant is that the Respondents have, by their Memo No. 36/2/2003-Estt. dated 24.9.04, rejected the case of applicant for compassionate appointment without application of mind.

3. The Respondents, in reply, have submitted that they had re-examined the case of the applicant according to the Recruitment Rules dated

17.2.94. However, in the course of re-examination, it was found that the post of Data Entry Operator, Grade-A had since become non-existent with effect from 31.3.03. Hence, there was no scope to accommodate the request of the applicant for compassionate appointment to the post of Data Entry Operator, Grade-A. They have also submitted that there is no scope under the existing instructions of Government to consider the applicant's case for appointment in any other Group-C post.

4. I have heard the Ld. Counsel for the rival parties and have perused the records placed before me.

5. From the facts, as submitted by the Respondents, it appears that the case of the applicant for appointment could not be considered favorably on re-examination of the matter as per the direction of this Tribunal vide its order dated 29.6.04 because by that time the post of Data Entry Operator, Grade-A had become non-existent. However, it has not been clarified there whether the posts of Data Entry Operator, grade-A have been abolished or those have been re-designated and re-christened or whether in the Respondent Department, data entry functions have been given up. In other words, they have complied with the order of the Tribunal dated 29.6.04 only in letter but not in spirit. The spirit of the order of the Tribunal dated 29.6.04 was that, the applicant having found to be possessing the requisite qualification for appointment when he had submitted his application on 15.3.2000, his case should be considered for appointment. As it is not clear whether the Respondent Department has done away with computer based functioning, I would direct the Respondents to re-examine the case of the

-4-

applicant both in letter and spirit of Tribunal's order dated 29.6.04 and do the needful in right earnest.

6. With the above direction, this O.A. is disposed of. No costs.



(B.N.SOM)
VICE-CHAIRMAN

KUMAR