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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 553 of 2005

Cuttack, this the 9<sup>th</sup> day of February, 2007.

Mandakini Nayak & Ors.

..... Applicants

Versus

Union of India & Others

..... Respondents

FOR INSTRUCTIONS

1. WHETHER it be sent to reporters or not? *No*

1. WHETHER it be circulated to all the Benches of the Tribunal or  
not? *No*

*[Signature]*  
(N.D.RAGHAVAN)  
VICE-CHAIRMAN  
*090207*

*[Signature]*  
(B.B.MISHRA)  
MEMBER (A)

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**ORIGINAL APPLICATION NO. 553 of 2005**

Cuttack, this the 9<sup>th</sup> day of February, 2007.

**C O R A M:**

THE HON'BLE MR.N.D.RAGHAVAN, VICE-CHAIRMAN  
&

THE HON'BLE MR.B.B.MISHRA, MEMBER(A)

1. Mandakini Nayak, Aged about 53 years, Widow of Late Gouranga Nayak, Village/Post- Saya (Natiyal), PS: Tihidi, Dist. Bhadrak.
2. Ashok Kumar Nayak, Aged about 34 years, S/o. Late Gouranga Nayak, At/Po-Saya (Natiyal), PS-Tihidi, Dist. Bhadrak

.... APPLICANTS.

By legal practitioner: M/s. Trilochan Rath, Advocate

**-VERSUS-**

1. Union of India represented through the Chief Postmaster General, Orissa Circle, Bhubaneswar.
2. The Superintendent of Post Offices, Bhadrak Division, Bhadrak.

. RESPONDENTS

By legal practitioner ..... Mr. U.B.Mohapatra, SSC

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## ORDER

### MR. B.B.MISHRA, MEMBER(A):

Applicant No.1 is the widow and the applicant no.2 is the eldest son of Late Gouranga Nayak who was working as Postman in Charampa Sub Post Office under Bhadrak Postal Division. While he was working as such, he expired on 18.05.2002 leaving behind his widow, one son and two daughters. After the death of the Government employee, his son (Applicant No.2) applied for providing employment on compassionate ground. His request for providing employment on compassionate ground was rejected by the Circle Relaxation Committee, as intimated to him under Annexure-A/4 dated 03.03.2004, on the ground that there were more deserving cases and also due to want of vacancy. Hence this OA under section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

“to admit the Original Application and upon hearing the Respondents direct them to extend the benefit of rehabilitation assistance scheme in favour of applicant aNo.2 and appoint him to any post befitting to his qualification including the Gramin Dak Sevak category.”

2. Respondents have filed their counter stating therein that following vacancies were to be filled up by direct recruitment in

Orissa Circle for the year 2002 as approved by the Screening Committee communicated by DG Posts Letter No.60/16/2002-SPB dated 18.09.2003:

Sl.No.	Name of cadre	Vacancies for 2002
1.	Postal Assistant	52
2.	Postman	13
3.	Group-D	12

5% of the total vacancies in each cadre to be filled up from amongst the candidates under compassionate appointment quota were as under:

Sl.No.	Name of the cadre	Vacancies under compnt.quota
1.	Postal Assistant	03
2.	Postman	01
3.	Group-D	01

3. It has therefore, been submitted that there were as many as 32 applications for Postal Assistant cadre, 14 applications in Postman cadre and 20 applications in Group D cadre received for providing employment on compassionate appointment. The cases of those cases including the case of the Applicant were placed before the CRC which met on 14.01.2004. The Circle Relaxation Committee

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examined all such case by taking into consideration the financial condition of the family assets and liabilities, size of the family number of major sons, daughters, grown up unmarried daughter, availability of any earning members in the family and the number of vacancies available in compassionate quota vis-à-vis the circumstances leading to death of the Government servant and the age of Government servant at the time of death. Taking into consideration the vacancies, the CRC recommended the cases of more deserving persons and rest of the applications including the case of applicant were rejected and the same were communicated to the individuals. As regards the applicant it has been submitted by the Respondents that the applicant No.2 has landed property of A.1.5 acre with annual income of Rs.3,000/- and Applicant No.1 has annual income of Rs.2,000/- from Agricultural source as per the income certificate given by the Tahsildar (Annexure-R/2&3). It has been submitted that besides the above income, the widow is in receipt of family pension. It has been stated that recommendation can only be made against a vacancy under compassionate quota. Since there was no vacancy available in that year to accommodate the Applicant, the case of the applicant was rightly rejected which needing no interference by this Tribunal.



4. Heard learned counsel for both sides and perused the materials placed on record.

5. It has been submitted by the Learned Counsel for the Applicant that since the father of the Applicant No.2 was the only earning member of his family after his death the family has faced acute financial difficulties to maintain the livelihood of other dependent members of the deceased. He has argued that out of Rs.1,96,274/- received by the widow towards the terminal benefits, Rs. 1,00,000/- was spent for the marriage of one of the daughters and Rs. 50,000/- was paid to the Bank for the loan taken by the deceased. By stating so, it has been argued by the Learned Counsel for the Applicant that the plea of the Respondents that the family is not in indigence is based on no logic. He has also argued that there are large number of vacancies available in GDS category and the applicant could have been adjusted against one such GDS posts. On the other hand, Learned Senior Standing Counsel for the Respondents has submitted that there being no irregularity or illegality in the matter of consideration of the case of applicant along with others, there is hardly any scope for this Tribunal to interfere in the matter. It has been argued by him that while considering the case of the applicant the

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departmental instructions were kept in view and since there was no vacancy in the year 2002 to accommodate the applicant, his prayer was rejected and communicated to the applicant. According to him, there is no instructions/rule to consider the case of the applicant against GDS post on compassionate ground. Therefore, the Respondents have done nothing wrong in rejecting the case of applicant.

6. After going through the various pleadings of the parties, we have given our anxious thoughts to the submissions advanced by Learned Counsel for both sides. We find no illegality or irregularity in the matter of consideration of the case of the applicant by the CRC. But the only thing remains unanswered is that we do not find any logic either from the documents produced by the Respondents or from the arguments advanced by Learned Senior Standing Counsel for the Respondents that when CRC met on 14.1.2004 and considered the case of the applicant against the vacancy of 2002 and they did not find any place to accommodate why they did not consider the case of applicant against the subsequent vacancies of the year 2003 and 2004 till the CRC met and considered the case of the Applicant. This question would not have arisen had the Department considered the

case of the Applicant during the year 2002 i.e. soon after the death of the father of applicant No.2. Having not done so, we find no justifiable reason to maintain the order of rejection under Annexure-A/4 dated 03.03.2004.

7. In view of the above, the order of rejection under Annexure-A/4 dated 03.03.2004 is hereby quashed and the matter is remitted back to the Respondents to reconsider the case of the Applicant against the vacancies of the year 2003 and 2004 within a period of 90 days from the date of receipt of a copy of this order.

8. In the result, this OA stands allowed with the aforestated terms. There shall be no order as to costs.

  
(N.D. RAGHAVAN)

Vice-Chairman

09.02.07.

  
(B.B. MISHRA)

Member(A)