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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 773 of 2005

Thursday, this the 10th day of January, 2008

C O R A M :

HONBLE DR. K B S RAJAN, JUDICIAL MEMBER

Bhaktabandhu Jena,
S/o. Late Harihar Jena,
At/PO : Nettanga, P.S. Gangapur,
District Ganjam. ... Applicant.

(By Advocate Mr. A.K. Bose)

v e r s u s

1. Union of India represented by
The Secretary, Ministry of Defence,
Central Secretariat, New Delhi.
2. The Engineering in Chief,
Army Headquarters Post,
New Delhi : 110 011.
3. The Chief Engineer,
Kolkata Zone, Military Engineering Service,
Ballygunge Maiden Camp,
Gurusaday, Kolkata : 700 019
4. The Garrison Engineer (FW),
4, Red Road Camp, Fort William,
Kolkata : 21 ... Respondents,

(By Advocate Mr. U.B. Mohapatra)

ORDER
HONBLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant has challenged Annexure A/7 order dated 11.04.2005 whereby his application for compassionate appointment was rejected. At the time of admission vide order dated 21.09.2005, the respondents were directed to consider the representation of the applicant for giving temporary / casual appointment during the pendency of the application. Records were called for vide order dated 24.11.2006. Vide

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V3

order dated 31.01.2006, the representation of the applicant was considered in pursuance of the aforesaid order dated 21.09.2005 and the case was rejected.

2. The respondents have produced photocopies of the relevant records.
3. Briefly stated, the father of the applicant expired in August, 1982 and at the time of his death, he left behind him his widow, 3 unmarried daughters and the applicant who is the only son. Within three months of his demise, the widow applied for compassionate appointment as at that time she was 38 years of age. Vide Annexure A/1, mother of the applicant was offered appointment in July, 1995, i.e. 13 years after her application. By that time she was 50 years of age and as such mother of the applicant requested for consideration of applicant's case for compassionate appointment vide Annexure A/2. Vide Annexure A/3, the case of the applicant was treated as a fresh case and the matter was referred to the Ministry of Defence. Vide Annexure A/4, the respondents called for adequate number of copies of applications in the prescribed proforma and by Annexures A/5 and A/6 communications, certain other documents were called for. It is after all these formalities have been completed, by Annexure A/7 impugned order the application for compassionate appointment of the applicant was rejected.
4. In the counter, the respondents have maintained that applicant's mother refused to accept the appointment as Mazdoor which was offered to her in July, 1995. It has also been contended that the applicant's case, though was considered, did not come within the category of most deserving cases based on various attributes fixed by the Government of India. It has further been contended that the applicant's case was considered thrice and since the appointment was limited to 5% of direct recruitment vacancies, his case could not be covered.

5. Counsel for the applicant argued that the application of his mother for appointment to her son was not rejected but further particulars were called for. However, the case of the applicant was not considered in its proper perspective. He has further submitted that though it has been stated that the applicant's case was considered thrice, it was neither in the consecutive years from 1982 to 1984 nor thereafter. The limitation of 5% quota for compassionate appointment was introduced only after 1998, as such applicant's case could have been considered at that time when no such limitation was prescribed. A perusal of Annexure A/1 would show that only format has been used without due application of mind. Counsel for the applicant also produced communication dated 01.09.2004 relating to grant of compassionate appointment and connected orders dated 16.03.1999. The same have been taken on record.

6. Counsel for the respondents submitted that as per Board of Officers which considered the case of the applicant, the case did not come within the prescription of 'deserving cases'. Photo copies of the records were also filed.

7. The case has been examined. The applicant has been granted 41 marks as hereunder:

(a)	Family pension	:	14
(b)	Terminal benefits	:	10
(c)	Monthly income of earning members:	:	05
(d)	Moveable and immovable properties:	:	Nil
(e)	Number of dependants	:	10
(f)	Number of unmarried daughter	:	Nil
(g)	Number of minor children	:	Nil
(h)	Left over Govt. servants	:	02

	Total	:	41

8. Vide paragraph 5 of Annexure A/8 order dated 31.01.2006, in column (e) it has been indicated that family has liabilities of 02 marriageable daughters. While this is an

admitted position, at the time of evaluation of the cases on comparative merit of deserving cases, the marks allotted for unmarried daughters is stated to be '0' whereas it should have been 10 as 5 marks are allotted for each unmarried daughter. If this is taken into consideration, the total marks would come to '51'. The calculation of marks appears to be patently erroneous. It is not reflected anywhere that there has been a change in the number of unmarried daughters in the case of applicant's family. The applicant in paragraph 4.1 indicated that there are 3 unmarried daughters, but it appears that at the time of consideration there were two. The application, therefore, deserves to be allowed to this extent that the respondents shall consider the case of the applicant taking into account the exact number of family members, especially the unmarried daughters, and after granting the marks for the same if the applicant's case falls within the deserved category, they shall consider grant of compassionate appointment to the applicant. Consideration shall be given in the immediately available future meeting of the Board of Officers.

9. The O.A. is allowed as indicated above. No costs.

(Dr. K B S RAJAN)
JUDICIAL MEMBER