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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No.215 of 2006

K.Dinabandhu Patra Applicant
Vs
Union of India & OthersRespondents

1. Order dated : 17-11-2011.

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)
AND
THE HON'BLE MR. A.K.PATNAIK, MEMBER (JUDL)

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In this OA the Applicant has sought direction to the Respondents to provide him employment assistance on compassionate ground as his father was working as Chowkidar and while working as such for being medically invalidated he retired from Railway Service w.e.f. 20.5.1997.

2. Respondents upon receipt of the notice filed their counter objecting to the prayer taken by the Applicant in the OA and further praying therein that this OA being devoid of any merit is liable to be dismissed.

3. Thereafter, the matter was listed on 03.01.2008. Since none for the applicant was present, the OA was dismissed for default. MA No. 752/2008 was filed by the Applicant on 24th December, 2008 seeking restoration of the OA along with MA No. 763 of 2008 seeking condonation of delay in filing the MA NO.752 OF 2008. But no step appears to have been taken by the Applicant nor his counsel to get the aforesaid MAs listed.

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However, both the MAs were listed for the first time on 24.3.2011 and considering the prayer of the Applicant opportunity of filing reply was allowed to the Respondents. In pursuance of the notice, the Respondents have filed their objection to the MAs contesting the prayer made in both the MAs. Both the MAs have been listed today. While giving consideration to the prayer made in the MAs we have also heard Learned Counsel for both sides on the merit of the matter. In view of the grounds stated in the MA No. 763/2008 the delay in filing MA No. 752 of 2008 is condoned and MA No. 752 of 2008 stands allowed. The OA is restored to file.

4. In so far as the merit of the matter is concerned, it is the case of the Applicant that while his father was working as Chowkidar in Railway, he met with an accident and became medically incapacitated to discharge his duty in the Railway as a result of which he sought to retire from service voluntarily on the ground of medical invalidation which prayer was accepted by his authority and his father retired from service w.e.f. 20.5.1997. Thereafter, as per the Rules, by making application compassionate appointment was sought in favour of the applicant. The Applicant was informed to submit all the documents in support of his age, qualification etc. He submitted the documents. Thereafter he was medically examined and

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found fit for appointment in Gr. D post in the Railway. But instead of offering him appointment on compassionate ground, the DRM (P), KUR informed him in letter under Annexure-1 dated 12-11-2001 that as the SLC submitted by the applicant was found to be not genuine and rather forged one, it was decided not to offer any employment on compassionate ground. It is the case of the applicant that he has not furnished the SLC found not genuine and the said SLC was filed by his father. He had no knowledge about the SLC submitted by his father. When this fact came to his knowledge through representation dated 5.1.2001 he submitted the original SLC with request for reconsideration and since then he has been ventilating his grievance expecting favourable result. Since nothing was communicated to him he approached this Tribunal in the present OA with the aforesaid prayer. Hence learned counsel for the applicant, under the above circumstances sincerely prayed for grant of the relief claimed in this OA.

5. Respondents' contention is that the applicant himself indicated in the attestation form about his age and signed the application seeking appointment on compassionate ground. In the application it was mentioned that he was studying in Ramchandra Mardaraj High School from 8.7.86 to 31.3.1989 and passed class VIII and discontinued his study from Class IX. As

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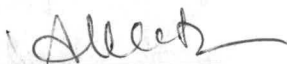
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such the plea taken by him is after thought and as the applicant betrayed/defrauded the Department he is not entitled to appointment as claimed by him in this OA. Hence it was prayed by the Respondents' Counsel that this OA being devoid of any merit is liable to be dismissed.

6. We have considered the rival submissions of the parties with reference to the materials placed on record. We completely agree with the Respondents' Counsel that equity helps those who come in clean hand. It is not a question of submission of the certificate by the applicant or his father. It is incredible that the applicant was not aware of the SLC as the same was furnished by his father. It hides more than it reveals. The application for appointment was duly filled up and signed by the applicant himself. This apart, no satisfactory explanation has been given in the OA for the delay not even any application has been filed seeking condonation of delay in approaching for the relief claimed in this OA. According to the Applicant he was denied appointment in letter dated 12.11.2001 and he submitted representation furnishing another SLC for replacement of the SCL submitted earlier and was found not genuine. But no explanation has been offered as to why he sat over the matter from 2001 till 2006. Therefore, besides having no merit, this OA is also bound to be dismissed on the ground of limitation.

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7. Accordingly, this OA stands dismissed by leaving
the parties to bear their own costs.


(A.K. PATNAIK)
Member (Judl.)


(C.R. MOHAPATRA)
Member (Admn.)

