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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO.481 OF 2006**  
**Cuttack, this the 10<sup>th</sup> Day of April, 2008**

Sri Uttama Kumar Das ..... Applicant

**Vs.**

Union of India & Others ..... Respondents

**FOR INSTRUCTIONS**

1. Whether it be referred to reporters or not? Not
2. Whether it be circulated to Principal Bench Central Administrative Tribunal or not? yes

**( JUSTICE K. THANKAPPAN )  
MEMBER(JUDICIAL)**

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**ORIGINAL APPLICATION NO. 481 OF 2006**

**Cuttack, this the 10<sup>th</sup> Day of April, 2008**

**CORAM:**

**HON'BLE MR. JUSTICE K. THANKAPPAN, MEMBER(J)**

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**IN THE CASE OF:**

Sri Uttama Kumar Das, aged about 31 years, son of Late Radhakanta Das, At.Ganjia, Po-Chakajagannathpur, PS-Khabtaoara, Dist-Balasore.

..... Applicant

By the Advocate(s)

.....

Mr. A.S. Nandy

**Vs.**

1. Union of India represented thorough the Secretary, Ministry of Urban Development, Central Public Works Department, New Delhi.
2. Office of the Chief Engineer, (Eastern Zone-1), Central Public Works Deptt., 234/4, AJC Bose Road, Kolkata-20.
3. The Executive Engineer, Kolkata Central Division No.1, Central P.W.D., Nizam Palace, Kolkata-20.
3. The Asst. Engineer, 'F' Sub-Division, Kolkata Central Division-1, CPWD, Shantha Gachi, Howrah, Kolkata.

..... Respondent(s)

By the Advocate(s).....Mr. R.C. Behera

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O.A. No.481/2006

ORDER DATED 10<sup>th</sup> APRIL, 2008

Coram:

Hon'ble Shri Justice K. Thankappan, Member (Judl.)

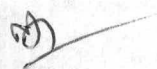
The applicant is the son of a deceased employee of CPWD, who was employed at Kolkata. The father of the applicant died in harness on 17.09.1999 in Govt. Hospital. The applicant so filed an application on 14.10.1999 to get an employment under Rehabilitation Assistance Scheme on compassionate ground. Necessary details of the applicant and service particulars of the father were also submitted to the authorities. Though the 3<sup>rd</sup> Respondent received the application and 2<sup>nd</sup> Respondent being the authority to consider the same, both the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents have not taken any step to give employment to the applicant on compassionate ground. Hence the applicant again reminded the authorities by filing Annexures-A/2, A/3 & A/4 etc. and finally Annexure-A/7 dated 14.01.2003. Despite of the above representations and applications filed by the applicant the Respondents kept quiet till 22.11.2006. On 22.11.2006 the Respondents by issuing a letter No.10(42)/SE-2/E-

III/CPWD/KOL/28621(Annexure-R-19) to the applicant which answer as follows :

"It is to inform you that, your application for appointment on compassionate ground in the grade of Belder was placed before the Regional Compassionate Appointment Board, Kolkata on 15.09.2006 and the Board has rejected your application for the first time, due to non-availability of vacancies on compassionate application quota."

Aggrieved by the in-action on the part of the Respondents and the time taken by the Respondents the applicant approached this Tribunal.

2. The stand taken in the counter by the Respondents is that the application of the applicant being considered and the matter is with the Scrutiny Committee for compassionate appointment. Further it is stated in the counter that as per Annexure-R/17 the appointment under the Employment Assistance Scheme shall be considered within one year from the receipt of the application and also shall within 5% quota earmarked for employment assistance. However, in Annexure-R/17 it is stated that the applications received prior to 22.06.2001 be considered and the applications of the applicant are also be considered.



3. Admittedly the applicant filed the required applications with all details the department wanted on 14.10.1999 itself and hence the restriction now contained either in Annexure-R/18 or other restriction that within one year the posts shall be filled up are not applicable in the case of the applicant. If so it is only proper for Respondent No.2 & 3 to consider the application of the application as per law and to pass appropriate orders within a reasonable time.

4. Ld. Counsel appearing for the applicant invited the attention of this Tribunal to a decision reported in 1995(II) OLR-194 in G.B. Patnaik and D.M. Patnaik, JJ in which the Hon'ble High Court of Orissa had observed as follows:-

“So far as the second question is concerned, we also find that persons junior to the petitioners in the seniority list have been regularized. But because of the earlier directions of this Court in a batch of cases directing rehabilitation assistance to the applicants whose near relations died while in service, implementation of that direction to consider all such cases chronologically, the junior persons as mentioned earlier have been absorbed on regular basis. Those persons are not similarly situated as the petitioners and they form a category of their own under the scheme of Rehabilitation Assistance. It is the settled position of law that persons claiming rehabilitation assistance should be given appointment on priority basis even in the absence of any available post by creating supernumerary posts. There fore, in the circumstances under which those junior

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persons have been absorbed on regular basis, it cannot be said that there has been any constitutional violation either of Art. 14 or 16 of the Constitution of India. In that view of the matter, the petitioner contention that there has been a violation of Arts. 14 and 16 of the Constitution by appointing persons junior to them in the seniority list is devoid of any force.

In the premises, as aforesaid, we do not find any merit in this writ application which is accordingly dismissed, but in the circumstances, there will be no order as to costs."

4. Apart from the above judgement of the Hon'ble High Court of Orissa, this Tribunal also perused one of the orders of this Tribunal passed in O.A 280/06 and in the above order dated 03.03.08 this Tribunal had observed while considering Annexure-R/18 as follows:-

"The fact situation in the instant case is also similar. Here also, as we have noticed, because of very limited cadre strength and occurrence of vacancies in a year against direct recruitment quota, there is no scope for providing compassionate appointment to the dependent wards of deceased employees who dies in harness although a scheme is there announced by the Govt. of India and even though the authorities are willing to assist in genuine case but it has practically become inoperable. In such a situation, in our considered view, some alternative arrangement should be made so that the family of the deceased can get some financial assistance in the event employment assistance is not possible or practicable."

5. Considering the above observations of the Hon'ble High Court and this Tribunal, this Tribunal is of the view that the

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Original Application has to be allowed. Hence Respondents No.2 & 3 are hereby directed to take up this application of the applicant as aforesaid to pass appropriate orders within a reasonable time at any rate within 90 days of the receipt of the copy of this order.

6. M.A. No.333/06 for condonation of delay is allowed.

7. Copy of this order be handed over to Ld. Counsel appearing on either side.

L. Kappan

MEMBER (Judl.)