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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 484 of 2006  
Cuttack, this the ~~24~~<sup>25</sup> day of April, 2008

K.Srinivas Rao .... Applicant.  
Versus  
Union of India & Ors. .... Respondents

For instructions

1. Whether it be referred to the reporters or not? X
2. Whether it be circulated to all the Benches of the CAT or not? ✓

(C.R.MOHAPATRA)  
MEMBER(ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 484 of 2006  
Cuttack, this the 24<sup>th</sup> day of April, 2008

C O R A M:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

In the matter of:

K.Srinivas Rao .... Applicant.  
Versus  
Union of India & Ors. .... Respondents

(For Full details, see the enclosed cause title)

By legal practitioner: M/s. B.S.Tripathy, M.K.Rath, J. Pati,  
Counsel

By legal practitioner: Mr.P.C.Panda, Counsel

O R D E R

MR.C.R.MOHAPATRA, MEMBER(A):

The father of the Applicant while working as Diesel Assistant Driver under the Respondents, breathed his last on 16.10.1982 leaving behind his widow, two daughters and one son (Applicant). After the death of the Railway Servant, his widow remarried on 16.10.1989. Applicant was a minor at the time of the death of his father According to Applicant, soon after getting the majority during 1996; he applied for providing employment on compassionate ground. Thereafter, on 22.05.2000 he submitted the death certificate of his father along with other necessary

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documents. His further case is that as no step was taken to provide him an employment on compassionate ground he again submitted representation on 09.10.2001 reiterating his grievance for employment on compassionate ground. The said prayer of the applicant having been rejected without any reason he approached this Hon'ble Tribunal in OA No. 918 of 2005. As the rejection letter dated 23.09.2005 was bereft of any reason, this Tribunal in its order dated 01.12.2005 quashed the letter of rejection and remanded the matter for reconsideration. In compliance of the order of this Tribunal, the case of applicant was reconsidered but the same was rejected and communicated to him in letter dated 10.02.2006 (Annexure-A/6) which order is now under challenge in this second round of litigation filed under section 19 of the Administrative Tribunals Act, 1985 seeking to quash the impugned order under Annexure-A/6 and direct the Respondents to provide him an employment on compassionate ground.

2. Respondents by enumerating the facts and provisions of Rules/instructions issued by the Railway Board in support of the order of rejection have stoutly objected the stand taken by the Applicant in this Original Applicant. No rejoinder has been filed by Applicant.

3. Heard Mr. Tripathy, Learned Counsel for the Applicant and Mr. P.C. Panda, Learned Counsel for the Respondents and perused the materials placed on record.

4. Learned Counsel for the Applicant has argued that the case of applicant has mechanically been rejected without considering the very purport of the scheme of providing employment on compassionate ground. In support of the above stand, learned counsel for the applicant has argued that as per the instructions of the Railway Board, the applicant submitted his application for employment on compassionate ground after attaining majority and even if there was any delay in submission, the same ought to

have been condoned with the powers available with the General Manager; because after the death of the railway servant, his mother deserted the other members of the family and the family could be able to survive with the aid, assistance and guardianship of their Aunt. He has argued that since the deceased was the only earning member in his family after his death the family members are in indigent condition; whereas, the case of the applicant was rejected by the authority without considering the existence of indigence in the family which is the basic condition for providing employment on compassionate ground. By stating so, he has led emphasis for quashing of the order of rejection and for directing the respondents to provide him an employment on compassionate ground.

5. On the other hand, Learned Counsel for the Respondents while reiterating the stand taken in the counter has submitted that the very aim and object of compassionate appointment is to mitigate the hardship caused due to death of the bread earner. Since in the present case, the family has managed to sustain the loss since 1982 and twelve years even after attaining majority by the Applicant, direction to provide employment would tantamount to depriving the benefit to really deserving candidate and the common citizens who are aspiring for employment assistance after acquiring qualifications etc. He has, therefore, strongly objected to the grant of the prayer of applicant.

6. I have given my anxious consideration to various arguments and pleadings made by the parties. According to Applicant, after attaining majority during 1996 he has requested the authorities for providing employment and that as per the instructions of the authorities in the year 2000 he has submitted the death certificate of his father along other documents. It was his further case that as there was no progress in the matter he has submitted another representation on 09.10.2001. But no reason has

been given as to why he kept quite for all these years i.e. till 23.09.2005 when his case was first considered and rejected. It is trite law that there should be no departure from this general rule except under compelling circumstances such as death of the sole bread earner and the livelihood of the family suffering as a consequence. Once it is proved that in spite of the death of the bread earner, the family (has) survived and a substantial period is over, there is no necessity to say goodbye to the normal rule of appointment and to show favour to one at the cost of several others, ignoring the mandate of Article 14. The High Court and Tribunals should not confer benediction impelled by sympathetic consideration to make appointments on compassionate grounds when the regulations did not cover and contemplate such appointment. The appointment on compassionate ground cannot be a source of recruitment. The object is to enable the family to get over the sudden financial crisis. Such appointments have, therefore, to be made in accordance with rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.

7. But in the present case it is noticed that the death of the railway servant was in the year 1982. Applicant attained majority in the year 1996. There is no family burden like education of children, unmarried daughter, old parents etc. If at all there are any instructions of the Railway Board for condonation of delay, one has to pray for the same by giving cogent reason. But in the instant case, applicant has placed no material showing any such grievance he had ever put up before the Respondents. Law is well settled that the Tribunal cannot sit as an appellate authority over the decision of the authorities. It can only interfere; if there is any wrong in the decision making process which is not the case of the Applicant.

8. In the case of *Indian Drugs and Pharmaceutical Ltd v. Devki Devi*, 2007 (1) AISLJ 224, the Apex Court held that the compassionate appointment is not a right. In the case of *State of J& K v Sajid Ahmed Mir*, 2007 (1) AISLJ 219 the Apex Court observed that when the family could survive in spite of the death of the employee at a belated stage the family should not get employment on compassionate ground. In the case of *National Institute of Technology and another v Miroj K. Singh* (2007 1 SCC (L&S) 668 by the time the employee died the son was a baby, still the Hon'ble Supreme Court held that compassionate appointment cannot be granted to the son after getting majority more than 15 years after the death of the employee.

9. Aforesaid being the position of facts and Law, I find no merit in this OA. Hence this OA stands dismissed by leaving the parties to bear their own costs.

  
(C.R.MOHAPATRA)  
MEMBER(A)

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