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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.NO. 597 of 2006
Cuttack, this the 18th day of August, 2008

Bijay Kumar Jena Applicant
Versus
Union of India & Ors. Respondents

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


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


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

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C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

Bijay Kumar Jena, aged about 35 years son of Late Baina Jena of Village-
Baruhan, PO-Retanga, PS-Jatani, Dist. Khurda.

.....Applicant

By legal practitioner: M/s.A.R.Dash,
R.N.Behera,
N.Swain,
S.K.Nandas-I
B.Mohapatra
M.C.Swain
S.N.Sahoo
Counsel.

-Versus-

1. Union of India represented through its General Manager, East Coast Railway, Railway Vihar, Chandrasekahrpur, Bhubaneswar, Dist. Khurda.
2. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, Khurda.
3. Divisional Railway Manager (P), Khurda Road, Dist. Khurda.
4. Asst. Engineer, East Coast Railway, Bhubaneswar, Dist. Khurda.

.....Respondents

By legal practitioner: Mr. D.K.Behera, Counsel.

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ORDER

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

The present Original Application has been filed for grant of compassionate appointment to the applicant whose credentials have been disputed by the Respondents.

2. Briefly stated the facts are that one Shri Bainā Jena while working as Head Trackman under Section Engineer (P.Way), Barang died on 06.09.1999 prematurely. After his death, the widow, Smt. Sumitra Jena submitted an Application dated 16-11-2000 (Annexure-R/1) to provide employment assistance on compassionate ground in favour of her son, Shri B.K.Jena. While processing the matter it was noticed that in the HSC certificate the name of the Applicant has been recorded as Bijoy Kumar Jena, S/o. 'Pratap Jena' (Annexure-R/2); in the Voter Identity Card (Annexure-R/3) the name of Applicant has been recorded as 'Bijoy Jena', S/o. 'Baureebandhu Jena' and in the duplicate voter Identity Card (Annexure-A/6 series) the name of Applicant has been recorded as Bijoy Kumar Jena, S/o. Bainā Jena. On 23.08.2002 (Annexure-R/4) the widow of the deceased employee submitted an application stating that Shri B.K.Jena is her natural born son. But by mistake the name of 'Pratap Jena' was

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shown, in the School record, as the father of B.K.Jena/Applicant and that 'Pratap Jena' is her brother-in-law. She also stated that her husband's name was wrongly recorded as 'B.B.Jena' in the Voter ID card (Annexure-R/3) issued in the name of the Applicant which was subsequently rectified as 'Baina Jena' in the duplicate voter I.D.Card issued under Annexure-A/3. Due to the discrepancies noted above, the widow was asked to produce a certificate from the Civil Authority justifying that 'Baina Jena' and B.B.Jena' is one and the same person and that 'Baina Jena' is the natural father of 'B.K.Jena/Applicant' and not 'Pratap Jena' (Annexure-A/4). She was also advised to produce certificate from the civil authority justifying that 'Bijay Kumar Jena' and Bijoy Jena' is one and the same person (Annexure-A/9). The widow submitted a certificate dated 16.10.2004 (Annexure-R/5) from the Tahsildar Jatni stating that 'B.K.Jena, S/o.Late Baina Jena' and "Bijay Jena, S/o. B.B.Jena" and 'B.K.Jena,S/o. Late Baina Jena' is one and the same person. Similar certificate was also issued on 04.03.2006 (Annexure-R/6). On 25.09.2003 the Applicant submitted a certificate issued by the Tahsildar, Jatni in support of his contention that Baina Jena and Late B.B.Jena is one and the same person. Along with the certificate

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of Tahasildar, he also submitted affidavits sworn in by Shri Pratap Jena and his wife that B.K.Jena is the natural born son of Late Baina Jena and that wrongly in the School Record his name has been shown as the father of B.K.Jena/Applicant. It is the contention of the Applicant that in spite of the above, his grievance for providing employment on compassionate ground was rejected by the competent authority on the ground that **the educational certificate indicates that the father's name is Pratap Jena which is not in consistency with the name in the other records** and the said order of rejection was communicated to the Applicant vide letter No.P/R/EA/DT/Gr.C/DA/586/03 dated 25.05.2006 under Annexure-A/12 by the Divisional Railway Manager (P)/KUR. Being aggrieved by the aforesaid order of rejection dated 25.5.2006/Annexure-A/12, the Applicant has approached this Tribunal in the present Original Application filed U/s.19 of the A.T. Act, 1985 seeking the following relief(s):

"Let the original application be admitted and notice issued to the Respondents calling upon them to show cause as to why the order of Respondent No. 3 vide Annexure-A/12 shall not be quashed and why the applicant shall not be given appointment under Rehabilitation

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Assistance under the Respondents as the legal heir of late Baina Jena. In the event, the Opposite Parties fail to show cause of show insufficient cause, said relief be granted in favour of the Applicant."

3. The Respondents have filed their counter. While genuineness or competence of the certificate granted by the Tahasildar, Jatni has not been disputed by the Respondents, the sole objection raised by the Respondents is that as there were discrepancies of the father's name recorded in the other records produced by the widow/Applicant vis-à-vis the HSC certificate of Applicant, the request for providing employment on compassionate ground was rejected.

4. Going by the arguments advanced by the parties vis-à-vis the materials produced on record, we are of the opinion that the impugned order under Annexure-A/12 is based on surmises without taking into consideration all the materials; especially the documents filed by the Applicant under Annexure-A/6 describing under what circumstances there was discrepancy in the recording of the father's name of the applicant in the School record. As such the same needs consideration afresh by the Respondents.

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5. In the above premises, the impugned order under Annexure-A/12 is hereby set aside and the matter is remitted back to the Respondents to give fresh consideration to the case of the Applicant by taking cognizance of all the materials especially the materials available under Annexure-A/2 and Annexure-A/6 series within a period of sixty days from the date of receipt of a copy of this order and communicate the result thereof to the applicant

6. In the result, this OA stands allowed to the extent stated above. No costs.

Appay
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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