

15

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 599 of 2006  
Cuttack, this the 02<sup>nd</sup> day of July, 2008

Manoranjan Majhi .... Applicant.  
Versus  
Union of India & Ors. .... Respondents

For instructions

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

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

16

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 599 of 2006  
Cuttack, this the 02<sup>nd</sup> day of ~~April~~, 2008  
JULY,

CORAM:

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

In the matter of:

Manoranjan Majhi .... Applicant.

Versus

Union of India & Ors. .... Respondents

(For Full details, see the enclosed cause title)

By legal practitioner: Mr.Ashok Kumar Mishra, Counsel

By legal practitioner: Mr.U.B.Mohapatra, SSC

ORDER

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

Undisputedly, the father of Applicant was a Group D employee in the Postal Department. He succumbed to death prematurely on 23.05.2000 leaving behind his widow, two sons namely Minaketan Majhi and Manoranjan Majhi. In order to overcome the financial crisis faced by the family due to sudden death of the only bread earner of the family i.e. the father of Applicant, Manoranjan Majhi the present applicant had sought for employment assistance on compassionate ground but the said prayer of the Applicant was rejected as is evident from Annexure-A/4 dated 25.01.2002 on the following grounds:

1

✓  
-2-

"1. The family has got Rs.82, 318/- as terminal benefit and also getting family pension Rs.1275/- + DP p.m.;  
2. One son is employed and there is no liability."

2. Challenging the aforesaid order under Annexure-A/4, the Applicant approached this Tribunal in OA No. 186 of 2002. Finding the grounds of rejection of the grievance of Applicant were contrary to Law, this Tribunal in order dated 02.01.2003 (Annexure-A/7) quashed the impugned order under Annexure-4 and directed as under:

"In the aforesaid premises, after over-ruling the first ground of rejection of the CRC, on the face of document filed by the Applicant under Annexure-6 dated 6-1-2002, this matter is remitted back to the Respondents/CRC to re-examine the matter afresh by entering into an enquiry as to whether the other son of the deceased Gr. D employee namely Minaketan Majhi is living separately from the deceased family members/Widow by severing the relationship and, only after entering into such an enquiry the department should pass necessary orders in the matter. All the exercises, shall be completed within a period of three months from the date of receipt of a copy of this order."

Thereafter, the Applicant was communicated a letter under Annexure-A/5 dated 19.01.2005 which reads as under:

"In pursuance of RO Sambalpur letter No. RE/RO/4-9/2001 dated 17.01.2005 it is intimated that your case of compassionate appointment was reconsidered by the CRC and rejected vide CO Memo No. RE/SMB CAT/2004 dated 28.12.2004."

L

This order under Annexure-A/5 is under challenge in this second round of litigation filed under section 19 of the Administrative Tribunals Act, 1985 praying for the following directions:

- "(i) To quash the impugned order at Annexure-4 and the order of rejection of the Applicant's case for compassionate appointment, communicated vide Annexure-5;
- (ii) To direct the Respondents to consider the case of appointment of the applicant in Group D post on compassionate basis within a time bound period as per the guidelines on the subject;
- (iii) To pass any other order(s) and a direction(s) as would be deemed fit and proper and for this act of kindness the applicant as in duty bound shall remain ever pray."

3. In support of the order of rejection, it is the stand of the Respondents that there was no violation of any of the existing instructions on the subject nor was there any miscarriage of justice in the decision making process of the matter. The case of the Applicant was considered strictly in accordance with Rules. Since it was revealed during enquiry that each of the family members are staying separately, besides the elder son of the deceased is in employment, the case of the applicant was rejected and communicated to him under Annexure-A/5 which needs no interference.

L

4. In the rejoinder filed by the Applicant opposing the stand taken by the Respondents in the counter, in support of his stand that his widow mother is staying with him he has filed an affidavit duly sworn in by his mother.

5. Heard Mr. Mishra, Learned Counsel for the Applicant and Mr. U.B.Mohapatra, Learned Senior Standing Counsel for the Respondents and perused the materials placed on record.

6. Learned Counsel for the Applicant has argued that the order of rejection under Annexure-A/5 is not sustainable and the same is liable to be quashed; as the same is bereft of any reason and opposed to the very order of this Tribunal under Annexure-A/7 by directing the Respondents to reconsider the case of the Applicant after making a fact finding enquiry as to whether the first son of the Applicant is residing separately to the family consisting of the applicant and his widow mother. On the other hand, Mr.Mohapatra, Learned SSC submitted that though there was no reason given in the order, but the grounds of rejection is that as the widow is in receipt of family pension and staying separately even from the applicant, the case of the applicant was not found to be a deserving one so as to be provided with an employment on compassionate ground thereby depriving more deserving candidates to be accommodated within the 5% vacancies earmarked for compassionate

appointment. On the above ground, Learned Senior Standing Counsel for the Respondents has strongly opposed the prayer of the Applicant.

7. I have given my anxious consideration to various arguments and pleadings made by the parties. It is trite law that there should be no departure from the 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. Though no reason has been given in the impugned order of rejection under Annexure-A/5 the Respondents have clearly stated in the counter as also during



hearing of the matter about the reasons of rejection. Compassionate appointment is not an alternate mode of appointment. It is provided only to redeem the sudden crisis faced by the family after the death of sole breads earner. The Applicant has placed no materials showing that the family is in indigent condition. The family has been able to survive with any employment assistance since 2000. Hence at this belated stage, any direction would tantamount to depriving the employment to a needy and deserving candidate on compassionate ground.

8. This view has also gained support by the decision of the Hon'ble Apex Court in the case of *Indian Drugs and Pharmaceutical Ltd v. Devki Devi*, 2007 (I) AISLJ 224, wherein 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 (I) 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.

-7- 29

9. In the light of the discussions made above, I find no merit in this DA.

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

  
(C.R. MOHAPATRA)  
MEMBER(A)

