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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO.665 OF 2006  
CUTTACK, this the 15<sup>th</sup> day of November, 2007**

Nirmalya Behera

.....Applicant


-Versus-

Kendriya Vidyalaya Sangathan & Ors

.....Respondents

**FOR INSTRUCTIONS**

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

  
(G.SHANTAPPA)  
MEMBER(JUDL.)

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**ORIGINAL APPLICATION NO.665 OF 2006  
(CUTTACK, this the 15<sup>th</sup> of November,2007)**

CORAM:

**HON'BLE SHRI G.SHANTAPPA, MEMBR(JUDL.)**

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Nirmalya Behera, aged about 20 years, S/O- Late Surendra Nath Behera, of village-Patana, P.O.Bentakur, 42 Mouza, P.s. Cuttack Sadar, Dist.Cuttack.

.....Applicant

Advocates for the Applicant .....M/S.Biswajit Mohapatra  
& M.Mohapatra.

Versus:

1. Kendriya Vidyalaya Sangathan, represented through its Commissioner, having its Head Quarters at 18, Institutional Area, Shahid Jeet Singh Marg, New Delhi-110016.
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, (Regional Officer), at Pragati Vihar, Mancheswar, Bhubaneswar, Dist.Khurda.
3. The Principal, Kendriya Vidyalaya No.1, Unit-IX, Bhubaneswar, Dist-Khurda.

.....Respondents

Advocates for the Respondents .....M/S.Ashok Mohanty,  
H.Tripathy, J.P.Patra & P.Sahu.

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**O.A.NO.665 OF 2006**

**ORDER DATED 15.11.07**

The above O.A. is filed under Section 19 of the AT Act, 1985 seeking the following relief:

- “(i) To direct the Res.No.1 to give appointment to the applicant on compassionate ground against any suitable post commensurating with his qualification within a stipulated time limit;
- (ii) To grant such other/further relief which the applicant may be found entitled to, in the facts and circumstances of the case.”

2. The brief facts of the case according to the applicant are that the father of the applicant died in harness on 20.07.05 leaving behind his widow, and old and ailing father and two college going sons including the applicant. After the death of the father of the applicant, the family was in a financial distress. Applicant submitted a representation for compassionate appointment on 22.09.05 along with necessary documents. The request of the applicant was rejected on the ground that the case of the applicant cannot be considered under the 5% of the direct recruitment quota. Since there is no direct recruitment, no appointment on compassionate ground can be made as per the rules. The order dated 16.12.05 is impugned as per Annexure-6. The applicant is challenging the impugned order on the ground that the respondents have not considered the case of the applicant in accordance with the scheme and the order at Annexure-6 is unjust, illegal, arbitrary and runs contrary to the sound principles of service jurisprudence.




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3. Per contra the respondents have filed a detailed reply statement rejecting the relief of the applicant and submitted that the case of the applicant was considered as per rules. Compassionate ground is a component of direct recruitment and when there is no direct recruitment, no compassionate appointment can be made as per the DOP&T OM dt. 09.10.1998. The family of the deceased is receiving the family pension of Rs.6,525/- (from 21.7.05 to 20.7.2012) & Rs.3,915/- (afterwards), DCRG Rs.3,35,918/-, LIC Rs.30,000/- & Rs.25,000/-, PLI Rs.20,000/- and encashment of Leave Rs.40,000/-; a total sum of Rs.4,51,635/-. As per the scheme for compassionate appointment, appointment can be granted to the eligible persons within the 5% of the total existing vacancies under direct recruitment quota. Accordingly the impugned order came to be passed.

4. Today none appeared from the either side. Hence I invoke the Rule 15 & Rule-16 of the CAT Procedure Rules for the Applicant and for the Respondents respectively and proceed to pass orders in this case.

5. I carefully consider the impugned order dated 16.12.05. The case of the applicant was rejected only on the sole ground that since there is no direct recruitment, no appointment on compassionate ground can be made as per rules. If no vacancies are available, the case of the applicant can be kept for some time and that can be considered under OM dated 05.05.03. The offering of compassionate appointment under the said OM is the maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant





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at the end of the first and the second year, after three years, if compassionate appointment is not possible to be offered to the Applicant, his case will be finally closed, and will not be considered again. It is relevant to extract the said OM dated 05.05.03 at para-2 & para-3:

"2. It has, therefore, been decided that if Compassionate Appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for Compassionate appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year.

3. The maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year, after three years, if compassionate appointment is not possible to be offered to the Applicant, his case will be finally closed, and will not be considered again."

6. Since the respondents have not considered the case of the applicant under the said OM dated 05.05.03, I direct the respondents to consider the case of the applicant in accordance with the said OM and pass a reasoned and considered order and the same is to be communicated to the applicant.

7. With the above observation, this O.A. is disposed of. No costs.

  
MEMBER(JUDL.)