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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.788 OF 2006
Cuttack, this the 15th Day of November, 2007

Khirod Chandra Barik..... 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 all the Benches of the Central Administrative Tribunal or not? - not


(G. SHANTAPPA)
MEMBER(J)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 788 OF 2006

Cuttack, this the 15th Day of November, 2007

CORAM:

HON'BLE SHRI G. SHANTAPPA, MEMBER(J)

.....

IN THE CASE OF:

Sri Khirod Chandra Barik, aged about 32 years, Son of Sri Daitari Barik, At/Po-Odanga, Via-Randiahat, P.S.-Agarapada, Dist-Bhadrak.
..... Applicant

By the Advocate(s)M/s.P. Jena,
S. Jena,
U.C. Jena,
A.R. Behera.

Vs.

1. Union of India represented through the its Secretary-cum-Director General of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, Bhubaneswar-751002
3. Superintendent of Post Offices, Bhadrak Division, At/P.O/Dist-Bhadrak.

..... **Respondent(s)**

By the Advocate(s).....Mr. S.B. Jena,

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O R D E R

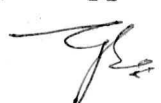
SHRI G. SHANTAPPA, MEMBER(J)

When case called none appears from either side on 12.11.07, 13.11.07 and 14.11.07. The Ld. Counsel for the respondents argued but neither the applicant nor the Ld. Counsel for the applicant was present. Today I invoke Rule 15 of Administrative Tribunals procedure and Rules, 1987 and I proceed to pass orders.

2. The Above application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief's:

“ To quash the letter dated 20.01.06 and there by pleased to give a direction to the respondents to give appointment to the applicant on compassionate ground within a time stipulated by the Hon'ble Tribunal.”

3. The brief facts of the case of the applicant are that, the father of the applicant died in harness. The deceased family consists of 03 sons, one unmarried daughter and wife. They were depending upon the income of the father of the applicant. Due to death of his father the entire family became financially distress. Hence, the applicant submitted an application on compassionate appointment under the scheme, to which, he had also submitted no objection certificate from other family members. The respondents have not considered the indigent condition of the family of the deceased employee, and rejected the application. The impugned order is illegal, arbitrary and speaks of non application of mind. The respondents have failed to consider the indigent condition of the distressed family, hence the impugned order is liable to be quashed and there shall be a direction to give appointment to the applicant on compassionate ground.



4. The respondents have filed a detailed reply statement, rejecting the relief of the applicant, on the ground that, the Circle Relaxation Committee had considered the facts of the case. According to the application the deceased has left no liabilities as his wife has expired. There is no unmarried daughter, there is no son to take up education and that too all the sons are major. As such the pre-requirement of indigent condition of the family is not there justifying relaxation appointment. The major sons are not the liabilities of the deceased, since they have to strive for their own sustenance. It is ascertain from the local enquiry that one of the sons of the deceased possesses Diploma Qualification. The respondents have also produce a copy of the Legal Heir Certificate (Annexure-R/1), in which, it has mentioned that, the applicant Khirod Chandra Barik age 42 years, but the applicant has wrongly mentioned in the cause title that his age is about 32 years. The applicant has suppressed the material facts only to get appointment on compassionate ground. Therefore, it does not appear to be a deserving case for consideration on compassionate appointment. The Circule Relaxation Committee meet on 16.01.06 and on the following 03 grounds the Committee has rejected the case of the applicant:-

“(1) The GDS official was on the verge of retirement. All sons of the deceased GDS are major and educated. They can compete in the open market for a job.

(2) The only daughter of the deceased is married. There is no liability of education of minor children or marriage of daughter.

(3) The mother (wife of the ex-employee) is not alive. As such, the need to support the mother does not exist.”



5. As such, the family is not considered to be in indigent condition to get appointment under the scheme for compassionate appointment. The father of the applicant died in harness on 24.12.04 at the age of 63 years 03 months and he was at the verge of retirement. The information regarding the wife of the deceased as depended is misleading one. The 03 major sons and married daughter viz. Khirod Chandra Barik 42 years, Ananda Chandra Barik 33 years, Gopal Chandra Barik 25 years and Koushlya Barik 28 years. As the deceased has left all the major sons and no unmarried daughter and wife, the deceased has no liability at the time of his death. The Circule Relaxation Committee considered the case, but did not find it to be a fit case for compassionate appointment, therefore, it is rejected. The respondents have relied on the judgement of the Hon'ble Apex Court dtd. 04.05.1994 in the case of U. K. Nagoak Vs. State of Haryana and others (JT 1994 (3) SC 525) and they have requested for rejection of the Original Application.

6. It is an admitted fact from either side that the father of the deceased died in harness on 24.12.04 at the age of 63 years 06 months, and, he was at the verge of retirememnt. The applicant, has not filed rejoinder to the reply statement. Hence, I have to consider the deceased has left 03 major sons and one married daughter. The 03 major sons and married daughter viz. Khirod Chandra Barik 42 years, Ananda Chandra Barik 33 years, Gopal Chandra Barik 25 years and Koushlya Barik 28 years. The present applicant is Khirod Chandra Barik 42 years, who is a married person. If the deceased family is really in indigent condition, the applicant could have asked



for an appointment to his younger brother who is 33 years of age, for that, the applicant has not sought for. The applicant was a married person, it is considered as independent family, he cannot be dependent of the deceased employee. The applicant is aged about 42 years and he is married, but in the cause title he has mentioned his age as 32 years. The applicant has not produce any document to show that, he is about the age of 32 years, therefore, he is not eligible. When the applicant has not filed the rejoinder, I have to consider the age of the applicant as 42 years, and he is married, his family is independent, he can not be a dependent of his father. The applicant does not fulfil the ingredients of the scheme. The respondents have produced a copy of the Legal Heir Certificate (Annexure-R/1), in which it is mentioned that the applicant Khirod Chandra Barik age 42 years but the applicant has wrongly mentioned in the cause title that his age is about 32 years. The applicant has suppressed the material facts only to get compassionate appointment on compassionate ground. Therefore, it does not appear to be a deserving case for consideration on compassionate appointment. The respondents have rightly taken their stand in the reply statement, therefore, the applicant does not fulfil the conditions for compassionate appointment.

7. Since the applicant does not fulfil the object of the Scheme, the respondents have rightly pointed out and reject the case

Yes

of the applicant. I am of the considered view, the respondents have justified while rejecting the grievances of the applicant. I do not find any illegality or irregularity or infirmity in the impugned order.

8. Accordingly, this O.A. is dismissed. No costs.


(G. SHANTAPPA)
MEMBER(J)

Kalpeswar