

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 586 OF 2002
Cuttack this the 14th day of January/2004

Manibala Barik ...

Applicant(s)

VERSUS

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *Ys*
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunal or not ? *No*

B.N. Sompalli
(B.N. SOMPALLI)
VICE-CHAIRMAN

10

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 586 OF 2002
Cuttack this the 14th day of January/2004

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

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Manibala Barik, aged 45 years,
W/o. Late Achinta Kumar Barik
resident of Village-Gudupahi
P.S. Chandipur, Dist-Balasore

...

Applicant

By the Advocates

M/s. D.P. Dhal
B. Mishra
K. Dash

VERSUS

1. Union of India represented through
Chief Post Master, Bhubaneswar,
At/PO-Bhubaneswar, Dist-Khurda
2. Superintendent of Post Offices, Balasore
Division, At/PO/Dist-Balasore
3. Asst. Superintendent of Post Offices (Incharge)
Balasore Sub-Division, At/PO/Dist-Balasore-756001

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Respondents

By the Advocates

Mr. A.K. Beze, SSC

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O R D E R
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MR. B.N. SOM, VICE-CHAIRMAN: This Original Application, under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant (Smt. Manibala Barik) W/o. late Achinta Kumar Barik, challenging the order dated 26.4.2002 (Annexure-7) passed by Res. No. 2, rejecting her application for compassionate appointment.

2. The case of the applicant is that her late husband, who was working as Extra Departmental Mail Carrier, Gudpei Branch Post Office died prematurely on 29.10.2000. After his death, the applicant has

2

had been approaching the Respondents for her appointment on compassionate ground in the Department, but the Department more than giving her financial aid of Rs.6000/- did nothing more. Not only that, without responding to her application, Respondent No.2 issued a notification dated 13.11.2000 for filling up the post of E.D.M.C., Gudpei. Against this notification the applicant again represented to Respondent No.3. While the matter stood thus, one Arun Kumar Barik son of the deceased came before this Tribunal in O.A.605 of 2002, with prayer to quash the said notification dated 13.11.2000 under Annexure-3 and to give him an employment on compassionate ground in the post of E.D.M.C. This Tribunal vide order dated 21.1.2002, while disposing of the said Original Application directed the Respondents mother of the to check up if the applicant was literate and with her level of literacy if she can carry on the work of EDMC. It was further directed that the regular process of selection to the post of EDMC, Gudpei should be taken up only after the case of the applicant's mother for compassionate appointment was finally decided. Pursuant to this direction of the Tribunal, the Circle Relaxation Committee considered all the representations and rejected the case of the applicant, as has been disclosed under Annexure-7. In respect of the indigent condition of the family, the applicant had submitted an income certificate issued by the Tahasildar, Balasore, showing that the family is having an income of Rs.488/- per annum.

3. Respondents-Department by filing a detailed

counter have contested the application wherein they have stated that the present case is not eminently suited for compassionate appointment. The deceased husband of the applicant died only four months before his superannuation, the age of superannuation being on 13.2.2001, on attaining 65th years by the deceased employee. However, the members of the family were given an opportunity to apply for an appointment on compassionate ground. The applicant submitted her application addressed to Respondent No.3 stating therein that she as well as her two sons are without adequate educational qualification for any post under the Respondents-Department (Annexure-R/1). This letter was received in the Office of Respondent No.3 on 13.11.2000. On receipt of this letter, Respondent No.3 took action to fill up the said post through open advertisement, when one of the sons of the deceased employee, viz., Shri Arun Kumar Barik approached this Tribunal in O.A. No.605/2000. The matter was finally decided on 21.1.2002, giving direction to Respondents to consider the case of compassionate appointment of the widow of the deceased employee, keeping in view the circular regarding educational qualification for the post prescribed by the Department. Further, the Respondents were directed to check up if the applicant was literate and with that level of literary she could carry on the work of E.D.M.C. The Respondents have further submitted that they have aforesaid carried out the direction of the Tribunal in letter and spirit, but they did not find the widow of the deceased Gramin Dak Sevak eligible to carry out the job of E.D.M.C.

They have also submitted that the applicant has failed to

to state that she had received retirement benefit of Rs.30,000/- as ex gratia gratuity and Rs.18,000/- as severance allowance as if the deceased employee served till his date of retirement. That apart, both the sons are major and married. The only daughter of the deceased employee is also married. Thus there is no liability in the family and that is how the Circle Relaxation Committee did not find the family to be indigent. On these grounds, the Respondents have prayed for dismissal of this C.A.

4. I have heard the learned counsel of both the sides and perused the records placed before me. During oral argument, the learned counsel for the applicant made a fervent appeal that the job of E.D.M.C. could be offered to the applicant as she is liberate enough to handle the job of carrying closed mail bag from one office to another. The learned Senior Standing Counsel for the Respondents refuted this submission of the applicant on the ground that even if educational qualification could be relaxed in favour of the widow, as the job requires that the G.D.S.M.C. should be capable of reading the mail list and being an outsider the applicant job/is required to know cycling, which is an essential part of the job. From the documents submitted by the applicant vide Annexure-R/1 dated 10.11.2000, it appears that the applicant had candidly submitted that she is overaged for any work and as her two sons did not possess the requisite qualification, she was not claiming for any appointment. I am not sure whether this letter was placed before the Tribunal when it decided Original

14

Application No.605/2000. However, there is another letter dated 24.11.2000, from which it appears that the signature of the applicant in long hand was put, whereas from her another letter dated 10.11.2000 it appears that she had put her left hand thumb impression, which was ~~not~~ witnessed by Branch Post Master, Gudpoi Branch Office. I had, therefore, directed the Respondents-Department to enquire into the genuineness of Annexures-R/1 and R/2 filed with their counter in this O.A. The matter was enquired into by the Asst. Superintendent of Post Offices (Vigilance) of the Circle Office on 12.11.2003 in presence of Shri Asutosh Patra, G.D.S.B.P.M., Gudpai B.O., Shri Sapan Panigrahi, Office Assistant and Shri Rameswar Mansada, Office Asst., in the Office of SPOs, Balasore, as well as both the sons of the applicant. The applicant admitted ~~that~~ during the enquiry ^{that} the L.T.I. on Annexure-R/1 belongs to her and also confirmed the contents of that letter read ^{out} to her. She had also submitted that she was not forced by anyone to write the letter under Annexure-R/1. She had further submitted that she learnt to read and ^{write} alphabets in vernacular after 10.11.2000 and thus had put her signature on the representation annexed to the counter at Annexure-R/2. It is also submitted by the Inquiry Officer that when she was requested to sign the statement made by her on 12.11.2003, she changed her mind and refused to handover the written statement made on behalf of her by her grand son. Then on 14.11.2003, the applicant reported to have submitted a statement, the content of which was quite different to ^{the} one she had made on the spot at her residence

on 12.11.2003 and that the contents of her statement dated 14.11.2003 differed from what she had stated at the time of confrontal inquiry on 12.11.2003.

5. Having regard to the facts of the case as revealed from the departmental inquiry dated 12.11.2003 and its findings on the genuineness of her letter dated 10.11.2000, it is quite apparent that her refusal to sign the statement made in presence of the Inquiry Officer goes to prove that the applicant has not come up with clean hands and therefore, the Court has to rely on her submission made under Annexure-R/1, by virtue of which she had irrevocably withdrawn her claim for compassionate appointment. I also agree with the submissions made by the Respondents that as the death of the deceased E.D.Agent took place three and a half months before his attaining the age of superannuation at the age of 65th years of age, this does not constitute a fit case to be considered under the scheme of compassionate appointment. In fact, the Respondents should have been more discreet and circumspect while issuing letter to the applicant under Annexure-3 calling upon her to apply for compassionate appointment. Issuing the letter at Annexure-3 was clearly not in conformity with the aim and objective of the compassionate appointment scheme. The Respondents will be well advised to have relook at their policy of compassionate employment assistance scheme in the event of death taken place towards the fag end of the service career, so as to avoid dissatisfaction and litigation.

6. Having regard to what has been discussed above, I am of the opinion that the applicant has not

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been able to make out a case for any of the reliefs
prayed for in this O.A. Thus, the D.A. being devoid
of merit is dismissed, leaving the parties to bear
their own costs.

(Signature)
B.N. SOM
VICE-CHAIRMAN

BJY