

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 633 OF 2002
Cuttack, this the 21st day of November, 2003.

Jugeswar Bhei. Applicant.
- Versus -
Union of India & Others. Respondents.

FOR INSTRUCTIONS

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

chand
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

21/11/03

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 633 of 2002
Cuttack, this the 21st day of November, 2003.

C O R A M:-

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER(JUDL.).

....

Jugeswar Bhei, Aged about 26 years,
S/o Late Murali Bhei,
Vill. Talkuna, P.O: Gechhadengen,
via. M. Rampur,
Dist. Kalahandi.

APPLICANT.

By legal practitioner: M/s. C. R. Nanda, A. C. Baral, Advocates.

: Versus:

1. Superintendent of Post Offices,
Kalahandi Division, Bhawanipatna,

2. Postmaster General,
Berhampur Region,
Berhampur, Ganjam.

3. Juhistir Pradhan of Village Berighat,
PO: Gechhadengen, Dist. Kalahandi.

4. Union of India through the Chief
Postmaster General, Orissa Circle,
Bhubaneswar, Dist. Khurda.

RESPONDENTS.

By legal practitioner: Mr. A. K. Bose,
Senior Standing Counsel.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER(JUDICIAL):

This Original Application, under section 19 of the Administrative Tribunals Act, 1985 has been filed by one Shri Jugeswar Bhei as Applicant.

2. The Applicant is the eldest son of Muralidhar Bhei, who (while working as Extra Departmental Branch Postmaster of Gechhadengin Branch Post Office) passed away

5

prematurely on 13-02-2001, leaving behind him nine dependants; including the widow and the Applicant as shown in Annexure-2 dated 14-3-2002 issued by the local Additional Tahasildar of M.Rampur of Kalahandi District of Orissa. He has prayed for a direction to the Respondents to provide him an employment on compassionate ground (by quashing Annexure-8 dated 04-04-2002, the order of rejection of the prayer for a compassionate appointment) and the order of appointment issued in favour of one Judhistir Pradhan (Respondent No.3).

3. Shorn of unnecessary details, it would suffice to note that the case for providing a compassionate appointment in favour of the Applicant, was duly processed by the Respondent Department and the same was put up before the Departmental Circle Relaxation Committee for consideration. In consideration of the materials placed before the said Circle Relaxation Committee, it rejected the case of the Applicant for compassionate appointment as conveyed to the Applicant under Annexure-8 dated 01-04-2002 in the following terms:-

"Your claim case for compassionate appointment has been rejected by the Circle Relaxation Committee as conveyed vide Regional Office Letter No. Vig/12-1/2002 dated 01-04-2002".

It is in the above background, the Applicant has approached this Tribunal.

4. Respondent-Department have filed their counter opposing the prayer of the Applicants and have prayed for dismissal of this Original Application being devoid of any merit. In the Counter, the Respondents have placed on record the above noted Regional Office letter dated 01-04-2002 as Annexure-G; which is extracted below:-

"... ... The Circle Relaxation Committee considered the following case for compassionate appointment carefully and did not find justification for the reasons noted against each. This case is, therefore, rejected by the Circle Relaxation Committee.

The Applicant may pleased be intimated suitably under intimation to Regional Office.

Name of the Applicant with relation to the deceased GDS official.	Division to which belongs.	Reasons for rejection.
Shri Jugeswar Bhei, S/o. Late Muralidhar Bhei, Ex-GDS BPM of Gochhadengen BO in account with M. Rampur SP	Kalahandi Division.	It is not a case of indigence.

5. Mr. Nanda, the learned Counsel appearing for the Applicant and Mr. A. K. Bose, Learned Senior Standing Counsel appearing for the Respondents have been heard and the materials placed on record have been perused.

6. With regard to order of rejection under Annexure-G dated 1.4.2002 and Annexure-G dated 1.4.2002, I am inclined to hold that no reason having been shown therein, the same are not sustainable.

J

7. Before proceeding to touch the validity or otherwise of the orders of rejection (under Annexure-S dated 1.4.2002 and Annexure-G dated 01.04.2002) I feel inclined to quote the relevant version of Respondent-Department (as reflected in their counter at paras-4.1 and 4.2) which have, apparently, prompted them to come to the conclusion that the Applicant is not impicunious as under:-

*4.1. The averment made in para 6.1 of the O.A. is admitted with further submission that the deceased Murali Bhei possessed 2.13 acres of land in his own name and as his wife Smt. Rukmani Bhei is the only daughter of her father Sri Udayanath Dharua who has 9.14 acres of landed property and she would be the only First Class legal heir after death of her parents as evident from Annexure-E, it is pertinent to believe that the family members of the deceased have another source of their livelihood.

4.2. ... when the Applicant could be able to purchase land after death of his father and paid Rs. 1800/- (Rupees Eighteen thousand only) for the said purpose, the averment of the applicant that his family members are in indigent condition after death of his father is not acceptable".

The above quoted averments of the Respondents goes to show that while examining the indigent condition of the family of the deceased ED Postmaster, they held that the widow of the ED Postmaster being the first class only legal heir shall succeed them, (after the death of her parents) and, therefore, the family shall have another source of income in future and, therefore, they have considered the case of the Applicant not to be an indigent one. Thus, the Respondent -Department have counted the chickens before

they are hatched'. Rather they should have believed in the proposition "a bird in hand is worth than two in the bush". It appears that Applicant purchased a land at the cost of Rs.18,000/- after the death of his father. Apparently, it was done out of the terminal benefits of the deceased ED Postmaster. The Respondents; who are not to take into consideration the terminal benefits for computing indigent conditions(as per the judgment reported in the case of BALBIR KAUR AND ANOTHER VRS. STEEL AUTHORITY OF INDIA - 2002(2)ATT (SC-255) in the case of RANKANIDHI SAHU VRS. UCI AND OTHERS - 2002(2)1 CJD(AT 21 and in the case of MINA KUMARI MOHANTY AND ANOTHER VRS. UCI AND OTHERS - (1994) 2 ATT(CAT) 120), ought not to have ~~ever~~ taken into consideration the money (Rs.18000/-) spent by the family. Therefore, I am of the view that the case of the Applicant for compassionate appointment has not been considered by the Respondents/ CRC in its proper perspective. It appears, the intention of the Respondents-Department was only to bring the case of the Applicant for consideration and not to grant the required relief.

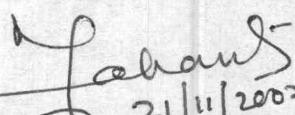
8. Having regard to what has been discussed above, there are no option but to quash the order of rejection (of the prayer for compassionate appointment) passed under Annexure-G dated 1-4-2002 (as conveyed to the Applicant under Annexure-S dated 1.4.2002); which are hereby quashed. As a consequence, the Respondent-Department are hereby directed to give a fresh look to the matter

Y
S

(in line of observations made in the preceding paragraphs) in providing a compassionate appointment to the Applicant herein; within a period of 120 days from the date of receipt of this order.

9. As regards the prayer of the Applicant to quash the appointment of Respondent No. 3 (Judhistir Pradhan); the same is hereby rejected on the ground that Applicant cannot have indefeasible right to claim for compassionate appointment against a particular post.

10. For the reasons discussed above, this O.A. succeeds partly. No costs.


21/11/2003

(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

KNM/GM.