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G.A.No. 758 OF 2002

Order dated 10-01-2003.

It is the case of the Applicant, Prafulla Kumar Mahakuda, that his father late Bhagirathi Mahakuda, expired on 18.4.2001 in harness (while working as Gramin Dak Sevak Branch post Master) ^{by} suffering from cancer. Since after the premature death of his father the family consisting of widow-mother, and three sons (including the present Applicant) are in distress and indigent condition, they moved the authorities for providing an employment on compassionate ground as per the instructions of the Director General of Posts, New Delhi. The prayer for compassionate appointment having been rejected vide order No. RE/RO/4-4/2002 dated 17.7.2002, the present Applicant has filed this Original Application, U/s. 19 of the Administrative Tribunals Act, 1985 ^{with prayers} to quash the said order under Annexure-3 dated 17.7.2002 ~~with~~ and ^{to the Respondents} direction to employ the applicant on compassionate ground.

2. Having heard the learned counsel for the Applicant and Mr. J.K. Nayak, Learned Additional Standing Counsel for the Union of India, appearing for the Respondents, I have perused the pleadings of the parties.

3. Respondents have filed their counter highlighting the grounds on which they have rejected the claim for compassionate appointment to the Applicant.

4. To counter the ground No.1 of the Respondents that the financial condition of the family is not so acute

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to merit compassionate appointment as the family has 4.5 Acres of cultivable land, it has been submitted by the learned counsel for the Applicant that since the Applicant belongs to Keonjhar district ^{where} the lands are not irrigated lands and the income from the lands ~~is~~ only Rs.9000/- per annum; which ~~will be~~ ^{is} evident from the Income certificate granted by the Tahasildar ^{of} Keonjhar under Annexure-1 series and, as such, it can not be said that the family consisting of atleast four members can survive with such income from landed properties. further in support of this, it has been submitted by the learned Counsel for the Applicant that this amount of Rs.9000/- per annum is not consistent keeping in view the natural calamities. My attention has been drawn by the learned Counsel for the Applicant to Annexure-R/1, the report submitted by the Sub-Divisional Inspector (Postal), Keonjhar West Subdivision, Keonjhar garh (under whose administrative control the said late Bhagirathi Mohakud was working) wherein at Col -1(B) it has been specifically mentioned, after making enquiry, that the Financial Status of the family is poor.

5. It is also common knowledge that in Keonjhar district, 2 and half acres of Agri. land is not enough for sustenance of the size of a family as in the present case. As such, on the face of the enquiry report as in

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Annexure-R/1, the ground no.1 as above, is not sustainable and the same is ^{hereby} over-ruled.

6. AS regards the ground No.2 (that the family has sustained itself and the period for immediate financial assistance to tide over the financial distress is over) is of no meaning; because as is experienced in several cases, even after consideration to provide compassionate appointment, the selectees are being kept in the waiting list and it takes years to-gether to provide physical appointment. ^{if} ~~As~~ such, ^{it} ~~it~~ is ~~is~~ accepted, then nobody can be able to get employment on compassionate ground. Hence, the ground No.2 as taken by the Respondents is nothing but to deny the employment to the Applicant on compassionate ground.

7. In view of the discussions made above, I find considerable force in the submissions of the learned Counsel Counsel for the Applicant and, accordingly, quash the order of rejection under Annexure-3 dated 17.7.2002 and, as a consequence, the matter is remitted back to the Respondents/ Circle Relaxation Committee to reconsider the matter afresh for providing an employment to the Applicant on compassionate ground, within a period of 180 days from the date of receipt of a copy of this order. In the result, this Original Application is allowed, leaving the parties to bear their own costs.

Send Copies to the Parties.

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)
10/01/2003

Copy of order
dt. 10.1.03 issued to
all the respondents by
posts. The same copy
issued to counsel
for both side.

S. C. S.
24.01.03
KMM/CM.

24/1/03