

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

**ORIGINAL APPLICATION NO. 763 OF 2002
Cuttack this the 7th day of January/2004**

Suma Bewa & Another ...

Applicant(s)

VERSUS

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

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

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S. Mohanty
07/01/04
(M.R.MOHANTY)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 763 OF 2002
Cuttack this the 7th day of January/2004

CORAM:

THE HON'BLE SHRI M.R. MOHANTY, MEMBER(JUDICIAL)

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1. Suma Bewa, aged about 54 years,
W/o. Late Agadhu Charan Dash
2. Pradipta Kumar Dash, aged about 32 years,
S/o. Late Agadhu Charan Dash

Both are residing at Village - Pangarsingh,
Via/PO-Brahmagiri, Dist-Puri

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Applicants

By the Advocates

M/s.P.V.Ramdas
P.V.Balakrishna

-VERSUS-

1. Union of India represented by the
Chief Post Master General, Orissa Circle,
Bhubaneswar-751001
2. Senior Superintendent of Post Offices,
Puri Division, Puri-752001

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Respondents

By the Advocates

Mr.A.K.Bose, S.S.C.

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O R D E R

MR.M.R.MOHANTY, MEMBER(JUDICIAL): Heard Shri P.V.Ramdas,
learned counsel for the applicants and Shri A.K.Bose,
learned Senior Standing Counsel appearing on behalf of the
Respondents-Department and perused the materials placed
on record.

2. Agadhu Charan Dash(husband of applicant No.1 and
father of applicant No.2), while working as Extra Departmental
Branch Post Master, Pangarsingh Branch Office under
Baghamari S.O., died prematurely on 7.5.1993, leaving behind
his widow and three sons. The prayer of the members of the

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family of the deceased E.D.Agent for providing an employment on compassionate ground in favour of applicant No.2 having been rejected by the Circle Relaxation Committee of the Postal Department on 7.12.1994, a representation was levied under Annexure-4. Having received no response from the Respondents in this regard, the applicants, in this Original Application under Section 19 of the Administrative Tribunals Act, 1985, have approached the Tribunal for redressal of their grievances. The applicants in this O.A. have also called in question the validity of Annexure-3 dated 7.12.1994. Non payment of ex gratia gratuity in favour of applicant No.1 (following to premature death of the EDBPM) is also the subject matter of challenge in this O.A.; wherein the applicants have prayed for direction to Respondents to release the ex gratia gratuity.

3. No reason having been assigned in the order of rejection under Annexure-3 dated 7.12.1994, the same is not sustainable, *prima facie*. However, liberty having been granted to the Respondents to reconsider the prayer for providing a compassionate appointment, the Chief Post Master General ^{of} Orissa Circle has passed an order on 02.09.2003, a copy of which has been filed to the counter as Annexure-R/6. In the said order under Annexure-R/6 dated 2.9.2003, it has been disclosed as under :

"... pre-requisite for consideration of compassionate appointment is to fulfill the minimum educational qualifications prescribed by the Department for ED posts. But in the instant case the applicant does not possess the minimum educational qualification of class VIII pass. There

is no provision to relax the same. This condition can be relaxed only in the case of the widow and not for any other wards of the GDS employee as stipulated in Directorate letter No.3-84/80-Pen. dtd. 20.01.1981. As the applicant Pradip Kumar Dash does not possess the minimum educational qualification to work in any GDS post his case was not considered by the CRC".

4. It appears that the Respondents/Chief Post Master General of Orissa Circle was swayed away by the following clarification indicated in D.G.Posts letter No.17-85/93-E.D.& Trg. dated 2.2.1994, which reads as follows :

"... in conformity with the spirit of the orders of the Department of Personnel under reference, the relaxation would be available only to the widow/widower of the deceased E.D.Agent and that too only for appointment against such category of E.D. Posts for which the prescribed minimum educational qualification is that of Group D, i.e., Middle Class pass".

5. It is apparent that while passing orders under Annexure-R/6 dated 2.9.2003, the C.P.M.G. has lost sight of Para-B(b) of the O.M. No.14014/6/94-Estt.(D) dated 9.10.1998 of the Department of Personnel & Training of the Ministry of Personnel & Public Grievances, Govt. of India; the relevant portion of which is extracted below:-

"B. RELAXATION

xxx xxx xxx

(b) Secretary in the Ministry/Department concerned is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules in the case of appointment at the lowest level, e.g., Group D or Lower Division Clerk post, in exceptional circumstances where the condition of the family is very hard..."

Thus, the latest circular of the Government of India issued by the D.O.P.T. invests powers with the

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of the
Secretary/Ministry or the Department to grant relaxation
in so far as educational qualification prescribed for the
post, akin to Group-D is concerned. Viewed from this angle,
the applicant No.2 is/was available to be appointed as
G.D.S.D.A.; even though he has read upto Class-IV. It
appears from Annexure-R/1 dated 30.1.1981 that for all
other categories of EDAs (lower than ED Stamp Vendor)
one should have sufficient working knowledge of the
regional language and simple arithmetic so as to be
able to discharge the duties satisfactorily. Thus, by
the time of death of Agadhu Ch.Dash, ex-EDBPM, the
applicant No.2 was/is available to be given a lower
post in E.D./G.D.S. Organisation. Since it is a case of
premature death of an EDBPM, the Department/Respondents
should have taken expeditious steps to provide immediate
relief to the distressed family. Attention of the Bench
has been drawn by the learned counsel for the applicant
to the 3rd note of the clarification issued by the D.G.
Posts letter dated 2.2.1994 (supra) wherein the local
authorities of the Postal Department have been vested
with duty to encorse the dependants, appointed as ED
Agents in relaxation of minimum educational qualifications,
to attain the prescribed minimum educational qualification.

6. In the aforesaid view of the matter, the
rejection orders under Annexure-3 dated 7.12.1994 and
the subsequent order under Annexure-R/6 dated 2.10.2003
are not sustainable and, therefore, the same are, hereby,
quashed and, as a consequence, the Respondents should
reconsider the case of the applicants (in order to

provide a compassionate appointment in favour of applicant No.2) if necessary by obtaining necessary relaxation orders from the Secretary of the Department. If by the time of death of the EDBPM(07.05.1993) the conditions given in Annexure-R/1 dated 30.1.1981 were still in force, then without any waste of time, the Respondents should proceed to provide an employment on compassionate ground to applicant No.2 (without going to obtain relaxation from the Secretary of the Department) and, in the event new circular governed the field by 7.5.1993 relating to educational qualification, then the relaxation should be obtained from the Secretary of the Department.

The applicant should also place adequate materials before the Respondents, without any waste of time, to show that the family is still continuing in a narrow circumstances following to the death of the sole bread-winner of the family. To state in nut-shell the applicant should place adequate materials before the Respondents to show that the family is in a state of penury, which he should do by the end of January, 2004, can be taken so that further course of action by the Respondents; which is hereby directed to be taken by them by 15.3.2004.

7. Before parting with this case it is worthwhile to note as regards of the prayer of the applicant that Respondents the L be directed to pay ex gratia gratuity, the Respondents, at Para-9 of the counter have made the following averments:-

....That in reply to the averments made in para

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4.6 of the O.A. as regards payment of ex-gratia gratuity, it is humbly submitted that the ex-official late Agadhu Charan Dash, husband of the applicant No.1 was under put off duty for the period from 27.4.1976 to 17.5.1976 and from 19.8.1977 to 24.3.1980 due to his involvement in several SB fraud cases by making fictitious entries in the Pass Books. Although the ex-official expired on 07.05.1993 and due to non regularisation of put off duty periods, the ex-gratia gratuity in favour of the legal heirs of the deceased official has not yet been finalised. However, the department is examining the issue regarding admissibility or otherwise of ex-gratia gratuity as per departmental Rules and instructions".

Since it is the categorical assertion of Shri A.K. Bose that the Respondents are taking expeditious steps for release of ex gratia gratuity as per departmental rules and instructions; they are hereby directed to release the same, as due and admissible, in favour of the applicant No.1 latest by 15.3.2004.

8. With the above observations and direction, this Original Application is disposed of, leaving the parties to bear their own costs.

M. R. Mohanty
07.01.04
(M.R.MOHANTY)
MEMBER (JUDICIAL)

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