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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 792/2002
Cuttack, this the 5th day of February, 2003.

BINAYAK BARIK.

....

APPLICANT

VRS.

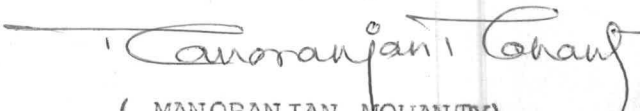
UNION OF INDIA & ORS.

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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? No.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL). 05/02/2003

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 792 OF 2002.
cuttack, this the 5th of February, 2003.

C O R A M:-

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

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Binayak Barik, Aged about 33 years,
S/o. Late Adikanda Barik,
At/Po: Baiganapadia, via. Kuchi,
Ps: Kuliana, Dist. Mayurbhanj.

APPLICANT.

By legal practitioner: Mr. T. Rath and Mr. S.K. Biswas, Advocates.

:Versus:

1. Union of India represented through
the Chief Postmaster General,
Orissa Circle,
Bhubaneswar,
DIST. KHURDA.
2. The Superintendent of post Offices,
Mayurbhanj division,
Baripada,
At/Po: Baripada,
Dist. Mayurbhanj.

RESPONDENTS.

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

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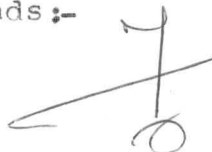
O R D E R

(ORAL)

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) : -

Adikanda Barik, while working as G.D.S. Mail Deliverer in the Kuchi Sub Post Office, expired (on 25-09-2001) prematurely, leaving behind the widow, two sons and two married daughters. After the sad-demise of Adikanda Barik, the eldest son Binayak Barik (Applicant) had applied for employment, under compassionate grounds, to redeem the family from indigent condition. The said prayer of the Applicant (Binayak Barik) having been rejected under Annexure-3 dated 15-04-2002 and under Annexure-4 dated 13-6-2002, he has filed the present Original Application under section 19 of the Administrative Tribunals Act, 1985 with prayer to quash the said orders of rejection and for a direction to the Respondents to provide him employment on compassionate ground; in order to remove the distress/indigent condition of the family.

2. As revealed from the counter filed by the Respondents, the request of the Applicant for providing him employment/appointment under compassionate grounds has been rejected by the Circle Relaxation Committee; on the following grounds:-



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The widow has received terminal benefits amounting to Rs. 50,000/- and she has also income from agriculture source amounting to Rs. 12,000/- per annum. Thus, the family has no liability and no hardship nor any liability is seen with the family. The sons are grown up and they can compete on their own merit for jobs in open market.

3. Heard Mr. T. Rath, Learned Counsel for the Applicant and Mr. A. K. Bose, Learned Senior Standing Counsel for the Union of India, appearing for the Respondents and have perused the records.

4. The points (basing on which the grievance of the Applicant, for providing employment on compassionate ground had been rejected under Annexures-3 and 4) came up for consideration before the Honourable Apex Court of India in the case of BALBIR KAUR AND ANOTHER VRS. STEEL AUTHORITY OF INDIA LTD. AND OTHERS (reported in 2000 (SCC (L&S) 767) and Their Lordships of the Hon'ble Apex Court of India have been pleased to observe that family benefit scheme assuring monthly payment to family of deceased employee was not a substitute for compassionate appointment, and that compassionate appointment could not, therefore, be denied on the ground that Family Benefit Scheme was available. The said view was taken by the Hon'ble Supreme Court of India in the background that the socialistic pattern

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of society, as envisaged in the Constitution, has to be attributed its full meaning and that the Law courts cannot be mute spectators, where relief is denied to the horrendous sufferings of an employee's family on account of death of the breadearner, and, that the Constitutional philosophy should be allowed to become a part of every man's life in this country and then only the Constitution can reach everyone and the ideals of the Constitution-framers would be achieved; since the people would be nearer the goal set by the Constitution. It has further been observed at para-13 of the judgment rendered in the case of Balbir Kaur (supra) as under:-

The family Benefit Scheme cannot in any way be equated with compassionate appointment. The sudden jerk in the family by reason of the death of the breadearner can only be absorbed by the family by lump-sum amount provided to it. This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the breadearner and insecurity thereafter reigns, and at that juncture if some lump-sum amount is made available with a compassionate appointment, the grief-stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be replacement of the breadearner but that would undoubtedly bring some solace to the situation.

(emphasis supplied)

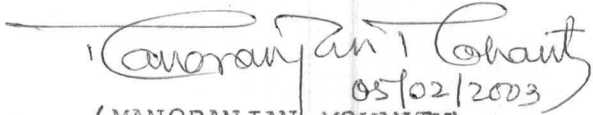
This Bench of the Tribunal had also the occasion to examine similar points in the case of Rankanidhi Sahu vrs. Union of India and others (reported in 2002(2)1 CJD(AT) 21) and in the case of Mina Kumari Mohanty and another vrs. Union of India and others (reported in (1994) 2 ATT (CAT) 120); where it was held that while computing the indigent condition of the

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prematurely retired/deceased families; the amount given as terminal benefits should not be taken into consideration. It is also a fact that there are no provision for monthly pension in the event of their retirement so far as GDSS are concerned. In the aforesaid premises, the order of rejection under Annexure-3 dated 15.4.2002 and Annexure-4 dated 13.6.2002 are hereby quashed and the Respondents are hereby directed to re-consider the case of the Applicant for providing him employment, on compassionate grounds, within a period of 90 (ninety) days from the date of receipt of a copy of this order.

5. In the result, therefore, this Original Application is allowed leaving the parties to bear their own costs.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

KNM/CM.