

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 960 OF 2002
Cuttack, this the 27th day of August, 2003

SUKANTA BEHERA.

....

APPLICANT.

:VRS.:

UNION OF INDIA & ORS.

....

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.

[Signature]
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 960 of 2002
Cuttack, this the 27th day of August, 2003.

C O R A M

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

....

k SUKANTA BEHERA,
Aged about 38 years,
S/o. Late Guranga Behera,
At/P: Ualda A Block,
Ps: Ualda 'E',
Dist. Sundergarh.

.... APPLICANT.

By legal practitioner; M/s. S. C. Parida, S. P. Nayak,
Advocates.

:VERSUS:

1. Union of India represented through
its Chief Postmaster General,
Orissa Circle, Bhubaneswar,
Dist. Khurda.

2. Superintendent of Post Offices,
Sundergarh-1, Sundergarh.

3. Sub-Divisional Inspector of Posts,
Rourkela West Sub-Divisions,
Rourkela -12.

... RESPONDENTS.

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

.....

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) :

The father of the Applicant (late Guranga Behera) was working as Extra-Departmental Delivery Agent of Jalda Sub-Post office and he died prematurely on 23-04-1998, leaving behind his widow and two sons (including

the present Applicant, who is the second son as his legal heirs. After the death of the said GDSMD/EDDA, the Applicant was given provisional appointment in the said post of EDDA from 23-04-1998 vide order dated 13.09.1998; where he continued upto 18.10.1998 in order to overcome the sudden distress condition of his family. The said appointment of the Applicant was extended from time to time (under Annexure-3 series) till receipt of the order of rejection (of the prayer of the Applicant for providing him regular appointment on compassionate ground) under Annexure-4 dated 21.12.2001. Thereafter, a public notice was issued under Annexure-6 dated 21.1.2002 for filling up of the post provisionally held by the Applicant; whereafter the villagers made representations (to the Senior Superintendent of Post Offices) for providing appointment to the Applicant, both for his dedicated service during the period he worked as E.D.D.A.; as also for removing the distress condition of the Applicant. Being aggrieved by the order of rejection (and consequential advertisement) this original Application under section 19 of the Administrative Tribunals Act, 1985 has been filed with the prayer to (a) quash the order of rejection (under Annexure-4 dated 21.12.2001) and (b) the advertisement inviting application to fillup the said post (under Annexure-6 dated 21.1.2002) and (c) to direct the Respondents to provide an employment to the Applicant on compassionate ground.

2. Respondents have filed their counter; wherein the factual aspects of the matter, however, have not been controverted by the Respondents and it has been stated that after the death of the Gouranga Behera, the ex-EDDA, details were called for, for providing compassionate appointment to one of the members of the deceased family and, at the relevant time (it has been disclosed by documentary evidence) the annual income of the family, from other sources, was Rs.15,000/- per annum and that, when all the documents were placed before the Circle Relaxation Committee, it, after taking into consideration all aspect of the matter and basing on the instructions contained in Department of Personnel and Training, Office Memorandum dated 9.10.1998, did not find the family to be indigent enough requiring employment assistance (on compassionate ground) to one of the members of the family and that in the said premises, his claim was rejected.

3. I have heard Mr. S. P. Nayak, learned counsel appearing for the Applicant and Mr. A. K. Bose, learned Senior Standing Counsel appearing for the Respondents and perused the materials placed on record.

4. At the outset it was submitted by the learned Counsel for the Applicant that the Department having found, *prima facie*, the family of the Applicant to be

in indigent and distress condition provided him an employment (on provisional basis) in the post in which his father was working. Further it was argued by the learned counsel for the Applicant, basing on the Income Certificate issued under Annexure-5 dated 18.02.2002, that at the time when the Income certificate was issued (earlier on 29.05.1998) the income of the Applicant was shown to be Rs.15,000/- from other sources but the subsequent certificate (issued under Annexure-5 dated 18.02.2002) it has been shown that the income from other source is Rs.7,000/- and from Agri. Rs.1000/-; which goes to show that the income from other sources is not a dependable one for the sustenance of the family. Further it was argued that even if it is considered that the family is having the income of Rs.15,000/- per annum, it is not sufficient to meet the day-to-day requirement of the family consisting of three members. It was further argued that the Circular/instruction, basing on which the grievance of the Applicant was rejected, is not applicable to the case of the Applicant; as the said circular was issued much after the case of the Applicant arose for consideration and the instructions governing the field (at the relevant time) would be applicable to the case of the Applicant. Further it was argued by the learned counsel for the Applicant that the order of rejection is not sustainable in the eye of law, the same being bereft of any reason.

5. Learned Senior Standing Counsel appearing for the Respondents submitted in support of the order of rejection that the scheme for compassionate appointment is not an indirect way of entering into public service and that it is a beneficial scheme for removing the hardship and distress condition of the bereaved family from the sudden jerk due to the death of the immediate bread earner and that by taking into consideration of all aspects of the matter since the C.R.C. rejected the grievance of the Applicant (by branding his case to be not enough requiring any employment assistance) this Tribunal should not interfere in the matter.

6. Having heard the learned counsel for both sides, I am of the view that the order of rejection under Annexure-4 dated 21.12.2001 is not sustainable; the same being bereft of any reason. That apart, once the Applicant was provided appointment on compassionate ground, though provisional, it is presumed that the appointing authority had considered the grievance and found that there was need of providing such employment; for which he was given employment/engagement. As such, the rejection of his grievance shows non-application of mind of the CRC. Apart from above, Rs.15,000/- or Rs.8,000/- is not enough for a family (consisting of three members) in these hard days to meet the basic requirements. I am

also of the considered opinion that the DOPT circular dated 09.10.1998 is not applicable to the case of the Applicant ; as the death of the father of the Applicant occurred much before issuance of the said instructions.

7. Therefore, the order of rejection under Annexure-4 dated 21.12.2001 is hereby quashed and, as a consequence, the Respondents are hereby asked to reconsider the case of the Applicant for providing him with an employment assistance on compassionate ground; which they should do within a period of sixty days from the date of receipt of a copy of this order. In this view of the matter, the advertisement dated 21.1.2002 (Annexure-6) as issued to fillup the post is also hereby quashed. In the result, this original Application is allowed. No costs.

Seeel
27/08/02
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)