

Order dated 10.03.04

1. Applicant's father, Damodar Jena, died prematurely, on 03.02.2000, while continuing in service as ED(GDSMC) and during May 2000 the terminal benefits amounting to Rs.48,000/- were paid to the Applicant; the sole legal heir of the EDMC. The applicant's prayer for providing him employment on compassionate ground having been turned down, on 05.09.2002, he has filed this Original Application under Section 19 of the Administrative Tribunal's Act 1985.

2. The Respondents have turned down the prayer for providing a compassionate appointment; on the ground that the Applicant was given Rs.48,000/- towards the terminal benefit of the deceased EDMC and that the Applicant is earning around Rs.15,000/- per year ~~from landed properties~~ <sup>as a daily wage earner</sup>. By filing a counter the Respondent Department has tried to support their stand for rejection of the prayer of the applicant for a compassionate appointment.

3. Heard Mr. K.C. Kanungo Ld. Counsel appearing for the Applicant and Mr. A.K. Bose, Ld. Sr. Standing Counsel appearing for the Respondents and perused the materials placed on record.

## NOTES OF THE REGISTRY

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4. Law is well settled by now that the terminal benefits granted are not to be taken into consideration for determination of the distress condition of the family of the deceased. For the reasons of the judgement of the Hon'ble Supreme Court of India ( rendered in the case of Balbir Kaur and another Vrs. Steel Authority of India Ltd and others reported in AIR-2000 Supreme Court at page 1596), the terminal benefits (granted to the family of pre-maturely deceased Govt. servant) are not to be computed to find out the indigent condition of the family. This Tribunal is also consistently taking the same view. In the case of Meena Kumari Vrs. Union of India and others (reported in 1994 (2) ATT/ CAT 12 ) and in the case of Rankanidhi Sahu Vrs. Union of India and others ( reported in 2002 (1) ) C.J.D (AT) 21 ), this Tribunal took the view that terminal/pensionary benefits are not to weigh the minds of the authorities, while considering to find out the indigent condition for providing compassionate appointment to a dependent of pre-maturely deceased Govt. servant.

5. Once the terminal benefits are taken out of the consideration, there remains only Rs.15,000/- as income per annum as given out in the income certificate granted by the Revenue

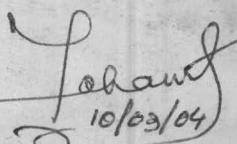
## NOTES OF THE REGISTRY

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Authorities, who have computed the annual income to be as per the minimum wages available to an able bodied non-technical person. That being so, in absence of compassionate employment being provided to the applicant, he could not have become a disturbed person of the society without earning anything for his survival and such a situation, by which the Applicant makes attempt for a dignified leaving, cannot be a ground for not providing him a compassionate appointment.

6. Judging from the above, it appears that the Applicant (although the sole legal heir of the prematurely deceased EDMC) is really in a distressed condition and, in all fairness, the Respondent Department should provide him an engagement/employment for his survival.

7. In the aforesaid premises the rejection order dated 05.09.02 (by which the Respondent Department refused to provide the compassionate appointment to the Applicant) is hereby set-aside/quashed and, while allowing the case, the Respondents are directed to give a fresh look to the <sup>within 120 days from now,</sup> matter for providing a compassionate appointment to the Applicant. No costs.

  
10/03/04  
MEMBER (JUDICIAL)

Copy of order off. 10/3/04  
issued to the counsel  
for both side.

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16/3/04