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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 1000/2002.
Cuttack, this the 15th day of October, 2003.

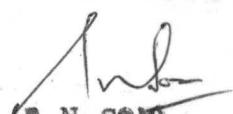
Panchanan Mallick. Applicant.

- VRS. -

Union of India & others. Respondents.

FOR INSTRUCTIONS.

1. Whether it be referred to the reporters or not? 75
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not. 75


(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.1000 of 2002
Cuttack, this the 15th day of Oct., 2003

C O R A M :-

THE HONOURABLE MR. B. N. SOM, VICE-CHAIRMAN.

....

Panchanan Mallick, aged about 29 years,
Son of Late Natabar Mallick,
At/Po:Kunjakothi,
Dist.Jagatsinghpur.

.... Applicant.

By legal practitioner: M/s. R. K. Patnaik, S. C. Puspak,
Advocates.

- Versus -

1. Union of India represented through the
Director of Postal Services, Head-quarters,
Bhubaneswar.
2. Chief Postmaster General, Orissa Circle,
Bhubaneswar.
3. Superintendent of Post Offices,
Cuttack South Division, Cantonment Road,
Cuttack-1.
4. Sub-Divisional Inspector,
Kujang Sub-Division,
At/Po:Kujang, Dist.Jagatsinghpur. Respondents.

By legal practitioner: MR. J. K. Nayak, Additional Standing
Counsel (Central).

O R D E R

(ORAL)

MR. B. N. SOM, VICE-CHAIRMAN:

Shri Panchanan Mallick, by filing the present
Original Application under section 19 of the Administrative
Tribunals Act, 1985 has prayed before this Tribunal for a
direction to the Respondents to consider his case for
appointment under rehabilitation assistance scheme within a
stipulated period;

2. The case of the Applicant, in brief, is that on the death of his father as Extra Departmental Delivery Agent, Kunjakothi Branch Post Office, he was given appointment as E.D. D.A. on temporary arrangement basis in spells of 89 days, from time to time i.e. from 29.2.2000 to 01.09.2001. On the death of his father, his mother was informed by the Respondent No. 4 to apply in the prescribed form seeking compassionate appointment, as his father has died in harness while in service, leaving them in an indigent condition. Accordingly, his mother had submitted an application which was examined by the Circle Relaxation Committee (in short 'CRC') but was rejected. Then the matter was brought before this Tribunal in OA No. 218/2002 and this Tribunal by order dated 24.4.2002 had directed the Respondents to re-consider the prayer of the Applicant for compassionate appointment. However, by his order dated 07.08.2002, the Chief Postmaster General, Orissa Circle, Bhubaneswar reconsidered his case but rejected the same on the ground that the family was not in financial distress. Aggrieved by this order, the Applicant has approached this Tribunal in the present original Application for redressal of his grievances.

3. The Respondents have contested this original Application by filing counter.

4. I have heard Mr. R.K. Patnaik, Learned Counsel appearing for the Applicant and Mr. J.K. Nayak, Learned Additional Standing Counsel, appearing for the Respondents and perused the materials placed on record before me.

5. Respondent No. 2 has finally rejected the application for appointment of the applicant on compassionate ground relying on the judgment of the Hon'ble Apex Court rendered in the case of Umesh Ku. Nagpal Vrs. State of Haryana and others (reported in JT 1994(3)SC 525) that the compassionate appointment cannot be claimed as a matter of right. He has in his order brought out the relevant fact to show that the ex-GDS/EDDA having died only three years before his normal age of superannuation leaving five sons who were all married and are engaged in cultivation and daily labourers, were not in indigent condition requiring special help. Learned counsel for the Applicant submitted that admitting that there is no existing rights of the Applicant to demand compassionate appointment, but the fact remains that he had been engaged as EDDA against the same post on the death of his father for over one year and that the post is still vacant, and since no one has been given appointment in that post, a direction be issued to the Respondents to re-examine the matter afresh. Learned Counsel for the Respondents brought to my notice that five more cases of compassionate appointment were pending in this division and, therefore, the case of the applicant will not be decided in isolation.

6. Having regard to the facts and circumstances of the case while it is admitted that the Applicant does not have any vested right to demand compassionate appointment as GDS, the fact that the post is lying vacant since 2001 cannot be lost sight of this Tribunal. I therefore, direct

that as and when the Respondents will take decision to fill-up the post of GDSDA, Kunjakantha Branch Post Office, they should also consider the application of the Applicant alongwith others, even if his name is not recommended by the Employment Exchange. However, they are at liberty to make selection to the post, according to the recruitment rules prescribed for this post.

7. In the result, this original Application is disposed of as aforesaid. No costs.


(B.N. SOM)
VICE-CHAIRMAN