

NO

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 335/2002
835/2002
851/2002
1063/2002
1065/2002

Date of Decision : 8.7.2002

CORAM: THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

...
IN O.A.No. 335/2002

Sri Fani Bhushan Tripathy, 30 years, S/o D.N.Tripathy,
Kaduapara, Jagatsinghpur, Sushama Bhawan, Ganapur,
Cuttack

... Applicant

IN O.A.No. 835/2002

Amiya Kumar Mohanty, 36 years, Son of B.C.Mohanty,
Magpur, PO-Kelar, District-Jagatsinghpur

... Applicant

IN O.A.No. 851/2002

Sri Gyana Ranjan Das, 31 years, S/o. Golakha Ch.Das,
Naila, Apakhia, District-Jagatsinghpur

... Applicant

IN O.A.No. 1063/2002

Sri Manas Ranjan Nayak, 27 years, Son of late Suresh
Chandra Nayak, Ex-S.A., R.M.S.N.Division, Cuttack-
At-Kesti Mallikapur, Post-Jhankada, Via-Tiran,
District-Jagatsinghpur

... Applicant

IN O.A.No. 1065/2002

Basudev Sahoo, 35 years, S/o. Bishnu Ch. Sahoo,
Theriaspada, Semepur, Cuttack

... Applicant

By the Advocates (in all the OAs)

M/s. A.K. Mishra
J. Sengupta
P. R. J. Dash
D. K. Panda
G. Sinha

1. Union of India represented through Director General of Posts, Dak Bhawan, New Delhi
2. Chief Post Master General, Orissa Circle, Bhubaneswar
3. Sr. Supdt. of R.M.S. 'N' Division, Cuttack

By the Advocates	Respondents
In O.A.335/02	Mr. S. B. Jena, A.S.C.	
In O.A.335/02, 851/02 & 1063/02	Mr. S. Behara, A.S.C.	
In O.A.1065/02	Mr. J. K. Nayak, A.S.C.	

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O R D E R

MR. B. N. SONI, VICE-CHAIRMAN: Since the cause of action of all the above mentioned five Original Application arises out of similar facts and circumstances and the point to be decided by us is one and the same, we direct that this common order will govern all those five O.A.s. For the sake of convenience, we may as well deal with the facts as set out in O.A.335/2002 for reference and adjudication of the dispute.

2. Applicant Shri Fani Bhushan Tripathy in O.A.No.335 of 2002 has challenged the inaction of the Respondents in considering his case for appointment on compassionate grounds, in relaxation of normal recruitment rules.
3. The facts of the case are that the father of the applicant, who was working as Group-D in R.M.S. 'N' Division Cuttack retired from service on medical invalidation with effect from September, 1996. Thereafter his son, the present applicant's case was considered by the Circle Relaxation Committee, which approved the case of the applicant for compassionate appointment. A decision to this effect was communicated to the applicant vide letter dated 9.9.1997

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(Annexure-1). On 23.2.1998 he was directed to report to the Director, Postal Training Centre, Darbhanga for obtaining theoretical training and thereafter practical training in R.M.S. Cuttack which he completed on 23.5.1998. It is after completion of training, the applicant was appointed/allotted to H.R.O. 'N' Division, Cuttack. In terms of the letter of appointment under Annexure-4, he was engaged on casual basis against leave vacancy. Since then he has been allowed to work against casual vacancy till to-day, but no action has been taken by the Respondents to regularise him in the Department against a permanent post. He has alleged that although he is continuing to work on casual basis, some of the candidates junior to him for compassionate appointment have been absorbed in group-C posts, and thereby he has been discriminated in the matter of appointment to Govt. service and therefore, has approached this Tribunal to direct the Respondents to absorb him as Sorting Assistant in any of the vacancies available in Orissa Circle.

3. The Respondents have contested application by filling a detailed counter. While admitting the facts of the case, they have pointed out that the applicant would be given regular appointment according to his turn against compassionate appointment quota, but his turn is yet to materialise. They have denied that any candidate junior to the applicant has been absorbed in Group-C in R.M.S. 'N' Division. They have also stated that due to paucity of vacancy in Sorting Assistant cadre, the applicant was offered the post of G.D.S. as per the instructions of the Postal Directorate, but he expressed his unwillingness

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to be appointed as G.D.S. and that is why he is still continuing in the engagement on casual basis. However, the casual engagement for sorting work has also been banned vide Annexure-R/2. It has also been submitted that as per the extant policy of the Government, waiting list for compassionate appointment has been dispensed with but before segregating the waiting list, the candidates whose names appeared in the list, were asked to exercise their option/willingness for being absorbed against G.D.S. posts. But in the instant case, the applicant expressed his unwillingness. They have also submitted that even if vacancies in the cadre of GDS were available for the year 2002, it may not be possible to absorb the applicant against the same, because, as per the existing instructions issued by the D.G. Posts dated 14.1.2001, the fresh cases of compassionate appointment will get precedent over the past cases falling within the 5% ceiling of compassionate appointment quota. With these submissions, the Respondents have opposed the prayer of the applicant.

4. The applicant had filed a detailed rejoinder to which further affidavit was filed by the Respondents, and we have also taken note of the same.

5. We have heard the learned counsel of both the sides and perused the materials placed before us.

6. The applicant is an approved candidate for appointment on compassionate ground waiting for appointment since 1997. The Respondents have gone at length to prove that the applicant could not be absorbed all these days, because, his turn did not materialise under compassionate appointment quota. The situation has been further extenuated

because of the decision of the Government to do away with the waiting list for compassionate appointment. Before winding up the waiting list, the Government had offered alternative job/opportunity to such candidates asking them to exercise their options for being absorbed against G.D.S. posts. It is an admitted fact that the applicant did not accept the offer. On the other hand, it is also a fact that the applicant was imparted training in the year 1997-98 at the instance of the Respondents and was allotted to H.R.O. 'N' Division to work as Sorting Assistant on casual basis. Normally, for casual engagement no one is given any training - far less in a training institute. By sending the applicant to Darbhanga Training Centre, a hope was generated in the mind of the applicant that he was blooming for appointment which has not yet been materialised since 1997. However, it is not the case of the applicant that a vacancy was available under compassionate appointment quota during the years from 1998 to 2002 for his appointment. The applicant has also not been able to explain clearly as to why he did not accept the offer of appointment against G.D.S. post. Respondent No.3 by its order dated 4.12.2002 and 11.12.2002 had decided to disengage the applicant from casual engagement on the plea that D.G.Posts had decided to discontinue the scheme of engagement of short duty staff (Annexure-R/6). We have perused the order dated 22.2.2001 of D.G.Posts regarding discontinuance of the scheme of short duty staff. However, on perusal of this letter, it reveals that this scheme concerns engagement of pensioners as short duty for

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managing peak hour traffic in the post office, at the time of festivals, like Holi/Banisher/Christmas etc. In the circumstances, we are of the view that this letter does not have any bearing to the case of the applicants herein, who were engaged/appointed on casual basis to manage leave vacancies in R.M.S. office for sorting work on day to day basis. We are, therefore, unable to accept the plea of the Respondents that the D.G.Posts had given any direction to discontinue the engagement of casual workers engaged for managing the leave vacancies. In the circumstances, we direct that the applicants in all the five OAs are working as casual Sorting Assistants since 1997/1999 onwards to manage the leave vacancy situations, the same arrangement should continue provided it is so required. But as a long term solution, without keeping the ball rolling, the Respondents are well-advised to consider the case of the applicants in all the five OAs for grant of temporary status to them pending regularization against the sanctioned posts. We would also like to observe that one more last opportunity be given to the applicants to exercise their options for being appointed/appointed against G.D.S. posts either in R.M.S. Divisions or in any of the Divisions in the Circle, if they are eligible according to the Recruitment Rules.

With the above observations, we dispense of all the five OAs. No costs.

<p style="text-align: right;">Sd/-</p> <p style="text-align: right;">M. R. Mohanty Member (G)</p> <p style="text-align: right;">D.P.T.</p>	<p style="text-align: right;">Sd/-</p> <p style="text-align: right;">B. N. S. Som. Vice-Chairman</p> <p style="text-align: right;">D.P.T.</p>
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