

02/21/03

OF THE REGISTRY

Adv. except R.C.
not back the obs.
App. Memu/Compt
not yet been filed.
for orders.

h
25/2

Regd

Order dt. 26.2.2004

Ld. counsel for the
applicant is present.
Ld. CSC by entering
appearance for all the
respondents prays 01
weeks time to file
counter. Heard.

Time is granted
till 29.3.04 to file
counter.

Done -
26/2/04
RMR

Counter not filed.

h
26/3

Regd

Order dt. 29.3.04

Parties are absent
on call. No steps taken
by the respondents to
file any counter.

However, call on
3.5.04 for filing of
counter as a last chance.

Done -
29/3/04
REGISTRAR

Coupler filed - copy
(coupler not served)
for orders.

h
27/3/04

Bench

For adjournment and
hearing.
Adjourned not filed) Bench

ORDERS OF THE TRIBUNAL

Order dt. 7/7/04.

None for the
Applicant. Call this
matter on 21/7/04.

~~Member(s)~~

Order dated - 21/07/04

Call on 23/07/04.

~~Member(s)~~

Member(s)

Order dated 23.07.2004

Applicant (Guna Jena), S/o. late
Alekh Jena, who died while in service as Runner
Jajpur, has prayed for consideration of his
case for employment under compassionate
appointment quota.

The admitted facts of the case are
that the father of the applicant had died on
6.4.1972. At the time of his death, the
applicant was minor, but when he came up with
application for employment under compassionate
appointment quota in the Department, he was
about 30 years. His case was considered by the
C.R.C., which did not find merit in his
application on the ground that the case was
time barred as per the D.G.Posts letter No.24/
89/84-SI-I dated 12.2.1986, and that as the
death has taken place more than 20 years ago,
the other brother of the applicant was already
in employment as Peon. The said decision of
the C.R.C. was communicated to the applicant
vide Annexure-R/2 dated 6/12.6.1997. The
learned counsel for the applicant, during
argument ~~xxxx~~ vehemently submitted that the

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

On Mr. 21.5.04

for Admision /
Hearing.

(Bench no 64)

decision of the CRC as well as Respondents-Department was wrong in holding that the brother of the applicant was already employed. He submitted that the fact is that applicant had an elder brother, viz., Bishnu Charan Jena. It was before the death of his father that his brother was adopted by one Ananta Jena, resident of village Samalpur, PS-Binjharpur in the District of Jajpur. On this ground alone, it is submitted by the counsel for the applicant that the matter deserves to be reviewed.

Shri A.K. Bose, learned Sr. Standing Counsel strenuously objected to the said argument and stated that the affidavit filed by the applicant under Annexure-2 of his O.A. in support of the statement to prove that his brother was given an adoption by his father has no legal basis, because, by virtue of an affidavit, nobody can prove the fact of adoption. As the applicant has failed to produce the necessary declaration from the Civil Court to that effect, the affidavit is not valid in the eye of law.

On Mr. 07.07.04

for Admision
and Hearing.

Bench

Bench

On a query the learned counsel for the applicant could not clarify as to why the applicant did not think it necessary to prove that elder brother had been given an adoption by his father and why this issue is being raised now.

The learned Standing Counsel also raised another point drawing my notice to the decision of Jodhpur Bench of the Tribunal in the case of Harisingh vs. Union of India & Ors. in O.A. No. 230/2002 (disposed of on 27.9.2002) wherein the Tribunal held that in case a person would have crossed the age of 25, he would not be eligible for consideration for compassionate appointment irrespective of other conditions supporting the case. I am also bound by this decision of the Tribunal. The learned counsel for the applicant submitted that it is because of poverty stricken the applicant had to repeatedly approach the authorities seeking a compassionate appointment and this is how delay

On Mr. 21.7.04

for Admision /
Hearing.

Bench

Bench

Ch 21. 23.2.04

Copies 2 order
prepared for counsels
for both side.

occurred. Suffice it would in this case to recall what the Apex Court has observed on this point in the case of LIC vs. Asha Ramavhandra Ambekar, as under:

..."It is true that there may be pitiable situation, but on that score the statutory provisions cannot be put aside. For ought one knew there may be other cases waiting for appointment on compassionate grounds, they may be even harder than that of the 2nd respondent".

Apart from the fact that the applicant in this case is overaged, so to say having crossed the age of 47, the scheme for compassionate appointment does not permit job to be offered to a ward of a family where there is already a bread earner and secondly, that the scheme does not contemplate consideration cases long after the death had taken place, because the objective of the scheme to save the family from destitution and therefore help is required then and there.

I have gone through the other cases brought to my notice by the Respondents(extract of which they have given at Annexure-R/12). These case laws also make one point clear that only those cases which fall strictly within the frame-work of compassionate appointment scheme alone should be considered.

Last but not the least, the application of the applicant before the Respondents was rejected in the year 1997, and in the meantime a decade is going to be over. The law of limitation stares very hard at the root. No material could be placed before me by the applicant to show that there were certain compelling reasons which prevent him from not approaching the Court/Tribunal earlier.

Having regard to what has been discussed above, I am unable to persuade myself to accede to the prayer of the applicant. In the result, the O.A. fails. No costs.

Abu
23
VICE-CHAIRMAN