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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH

O.A.NO. 150 of 2007  
Cuttack, this the 26th day of March, 2009

Ajaya Kumar Bisoyi ..... Applicant  
Vrs.  
Union of India and others ..... 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? *Yes*

  
(K. THANKAPPAN)  
JUDICIAL MEMBER

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH

O.A.NO. 150 of 2007

Cuttack, this the 26<sup>th</sup> day of March, 2009

Ajaya Kumar Bisoyi, aged about 30 years, son of late Sibaram Bisoyi of  
village/PO-Soura Chhachina, P.S.Beguniapada, Dist.Ganjam

..... Applicant

Advocate for applicant - Mr.Trilochan Rath

Vrs.

- 1) Union of India, represented through Director General of Posts,  
Department of Posts, Ministry of Communication, Dak Bhawan,  
New Delhi 110 001.
- 2) The Chief Postmaster General, OrissaCircle, Bhubaneswar,  
Dist.Khurda.
- 3) Senior Superintendent of Post Offices, Berhampur Division,  
Berhampur, Dist. Ganjam ..... Respondents

Advocate for Respondents - Mr.B.Dash, ACGSC

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O R D E R  
JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

Aggrieved by the order dated 14.3.2006 by which his application for compassionate appointment has been rejected, the applicant has filed the present Original Application. This is the fourth round of litigation by the applicant before this Tribunal. The question involved in this O.A. is that whether the rejection of the

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applicant's claim for providing him employment assistance under the compassionate appointment scheme is justifiable or not.

2. Before considering the factual matrix of the case, it is only proper for this Tribunal to look into the intention of introducing the scheme either by the Government or by the Railways, Government of India Undertakings, and other organizations, i.e., to help the family of a deceased employee, who died in harness, to get over the financial crisis, which it faces at the time of the death of the sole breadwinner. While introducing such a scheme, either the Government or the authorities never thought that the scheme should be taken as a mode or basis for filling up public posts. But at the same time the idea is to give minimum financial assistance to the bereaved family in order to escape from the immediate financial crisis. It has been held by the Apex Court in a catena of cases that appointment or employment assistance under the scheme cannot be claimed as a matter of right nor can it be claimed after a lapse of time and after the crisis is over, and that it also cannot be claimed if the family of the deceased employee is having sound financial position even by receiving any benefits from the Department, including terminal benefits, pensionary benefits or income from any other source. Further, it is to be noted that as per the judgments of the Apex Court as well as various High Courts and Tribunals, the vacancies earmarked for appointment under the

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scheme are limited to 5% of the direct recruitment quota. All these questions were already considered by various judgments of the Hon'ble Supreme Court and High Courts and the settled position is that the family of an employee, who died in harness, can be supported by giving an employment to a member of the family under the scheme in order to get over the immediate financial crisis which it faces.

3. With the above principles now accepted uniformly by Courts and Tribunals, this Tribunal has to analyze the factual matrix of the case in hand. The father of the applicant, one Sibaram Bisoyi died in harness on 25.8.2003 while he was working as Gramin Dak Sevak Branch Post Master in Soura Chhachina B.O. under Berhampur Division of Orissa Circle. After the death of his father, the applicant filed an application for providing him employment assistance. Along with the application he submitted the required documents showing the educational qualification and the financial position of the family. Since the above application was not considered in time, the applicant filed OA No. 1404 of 2003 and this Tribunal considered the above O.A. and disposed of the same with a direction to the Respondents to consider the application of the applicant. However, on consideration of the application, as directed by this Tribunal, his application was rejected by the Respondents on the grounds that the condition of the family was

not indigent as it possessed 8 acres of agricultural land, a concrete building in the village and was having an annual income of Rs.40,000/- from agricultural land and also had received Rs.72,842/- as terminal benefits from the Department. However, the above order of the Respondent-authorities was challenged in this Tribunal by filing OA No. 878 of 2005. In the said O.A. the main prayer of the applicant was that the terminal benefits received from the Department could not be the basis for rejecting his application for compassionate appointment. However, this Tribunal directed the Respondents to give due reconsideration to the application providing a compassionate appointment to the applicant within a period of 60 days. This order of the Tribunal having not been complied with, the applicant filed C.P.No. 25 of 2004. However, after disposal of the above O.A. as well as the C.P., the Respondents have now passed Annexure A/9 order on 14.3.2006 rejecting the application of the applicant. The above order is now challenged in this O.A.

4. This Tribunal heard Shri T.Rath, the learned counsel for the applicant and Shri B.Dash, the learned ACGSC for the Respondents. This Tribunal also perused all the documents submitted along with the O.A.

5. On anxious consideration of the contentions of the parties, it is to be noted that on the principles laid down by the Apex Court

and followed by various High Courts and Tribunals, the financial position of the family of the deceased employee has to be taken into account while considering the claim of the applicant for providing him employment assistance. It is also to be noted that the Circle Relaxation Committee, after considering various aspects of the case, came to the conclusion that the condition of the family was not indigent, as contemplated under the scheme, so as to get employment assistance. It is now the trite law that after a lapse of some years the consideration of the claim for giving an employment under the scheme will defeat the very intention of the scheme. That apart, this Tribunal has noted that the applicant's father died on 25.8.2003 and the case of the applicant has been considered three times even in the light of the O.M. of the Department of Personnel & Training, dated 9.5.2003. An application of such kind can be considered three times for offering any appointment if such application is found fit to be acted upon. On analyzing the principles and also the factual position, this Tribunal finds that the applicant has not produced any material to prove that the conclusion arrived at by the Respondents, as stated in Annexure A/9, is untenable. The applicant now relies on a certificate given by the concerned Tahasildar in which it is stated that annual income of the family is Rs.7000/- This certificate is not supported by any evidence produced by the applicant. The

report made on enquiry by the Department would show that what the Tahasildar has stated is incorrect and cannot be acted upon. In the above circumstances and on consideration of all the points, this Tribunal finds no merit in this O.A. Accordingly, the O.A. stands dismissed. No costs.

K. THANKAPPAN  
(K. THANKAPPAN)  
JUDICIAL MEMBER