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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No. 209 of 2007
Cuttack, this the 2nd November, 2007

Smt.Kuntala Pradhan & Another Applicant.
Vrs.
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of CAT?

No

(M.R.MOHANTY)
VICE-CHAIRMAN



CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM:

THE HON'BLE SHRI M.R.MOHANTY, VICE-CHAIRMAN

1. Smt. Kuntala Pradhan, aged about 65 years, W/o. Late Krushna Chandra Pradhan.
2. Shri Kanhu Charan Pradhan, aged about 32 years, Son of Late Krushna Chandra Pradhan.

(Both are residing in Vilage-Chasapada, Po. Chasapada, Ps: Choudwar, Dist. Cuttack.

.....Applicants.

By Legal practitioner : Mr. Dillip Kumar Mohanty, Adv.

-Versus-

1. Union of India represented through its Cabinet Secretary to Government of India, Cabinet Secretariat, East Block-V, R.K.Puram, New Delhi-110 066.
2. Director, Aviation Research Centre, ARC Head Quarters, Director General of Security (Cabinet Secretariat) Block-V (East), R.K.Puram, New Delhi-110066.
3. The Deputy Director, Aviation Research Centre, Charbatia.
4. The Assistant Director (A), ARC, Government of India, At/Po. Charbatia, Choudwar, Dist. Cuttack.

.....Respondents

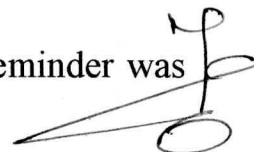
By Legal Practitioner : Mr. S.Barik, ASC.


O R D E RMR. M.R.MOHANTY, VICE-CHAIRMAN:

Krushna Chandra Pradhan, while working as a Field Assistant under the Director of Aviation Research Centre (ARC) at Charbatia (near Cuttack) of the State of Orissa, died prematurely in a road accident on 15.10.1999 leaving behind his widow, two-married daughter, one-unmarried daughter and two sons named below:

1. Kuntala Pradhan (widow)-Applicant No.1
2. Kumudini Pradhan (married daughter)
3. Sumitra Pradhan (married daughter)
4. Sabita Pradhan (un-married daughter)
5. Kanhu Charan Pradhan (son)-Applicant No.2
6. Bidyadhar Pradhan (Son).

On 30.12.1999, his son Kanhu Charan applied for an employment on compassionate ground and, on 18.06.2003, the Respondents called for details (in a format); which were furnished on 09.09.2003. Finally, the prayer for an employment on compassionate ground was rejected on 27.12.2003; for which an Appeal Petition was submitted on 06.02.2004 and a reminder was

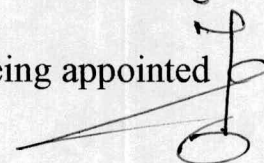




submitted on 30.03.2007 and the present Original Application U/s.19 of the Administrative Tribunals Act, 1985 was filed on 26.06.2007 with prayer to quash/set-aside the rejection order under Annexure-A/6 dated 27.12.2003 and for a direction to the Respondents to provide an employment (to the Applicant No.2) on compassionate ground.

2. While raising the question of limitation in the counter filed by them, the Respondents pointed out that a duly constituted Committee considered on 18.07.2003, 25 cases (including the case of Applicants) for providing employment on compassionate ground and that the Committee did not find the case of Applicants to be more deserving than the cases recommended for appointment against the 5% of the direct recruitment quota vacancy meant for compassionate appointment.

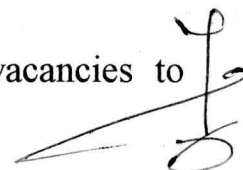
3. Materials placed on record go to show that the case of Applicant No.2 received due consideration by the Respondent-Department and his case was found less deserving than the cases recommended by the Committee for being appointed



on compassionate ground. In the absence of any rejoinder, the case of Respondents so far as the recommendation/non-recommendation of the case of Applicant by the Committee held on 18.07.2003 is not available to be faulted.

4. However, it is the case of the Applicants (as stated by his Advocate) that the case of that the cases of the Applicant should have received due consideration every month in terms of para 12 of the Scheme of Compassionate Appointment formulated/ circulated on 9th October, 1998 by the Ministry of Personnel Public Grievances and pension (Department of Personnel and Training) New Delhi. It is stated on behalf of the Applicant that had the case of Applicant No.2 received due consideration of the Respondent Department in time, then he would have got an employment on compassionate ground.

5. By drawing attention to paragraph 7(f) of the said scheme dated 9th October, 1998, Mr. D.K.Mohanty, Learned Counsel appearing for the Applicant stated that if it is the case of the Respondents that they did not find adequate vacancies to

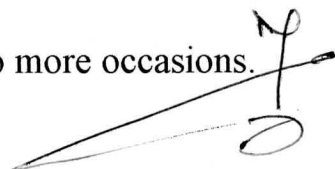


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accommodate the deserving case like the present one, then they should have taken up the matter with other Ministries/Departments/Offices of the Government of India to provide him (Applicant), at an early date, appointment on compassionate ground. The text of paragraph 7 (f) of DOP&T Circular/Instruction dated 9th October, 1998 reads as under:

“7(f). If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Ministry/Department/Office to take up the matter with other Ministries/Departments/Offices of the Government of India to provide at an early date appointment on compassionate grounds to those in the waiting list.”

6. Under the instructions of DOP&T/Government of India, the case of the Applicant No.2 ought to have received due consideration on minimum three occasions. As has been admitted by the Respondents, the case of Applicant No.2 has received consideration only on one occasion. In all fairness of things, his case ought to receive consideration on two more occasions.



7. In the aforesaid premises, this OA is hereby disposed of/remitted back to the Respondents asking them to reconsider the case of Applicant No.2 (for providing an employment on compassionate ground) for two more occasions by keeping in mind the modified circular/instruction of DOP&T in regard to existing ceiling of 5% on compassionate appointment quota. The Respondents should also explore possibility of providing employment on compassionate ground in any other Department/Ministry/Office as per paragraph 7(f) of the DOP&T circular/instruction dated 9th October, 1998 (supra).



(M.R. MOHANTY)
VICE-CHAIRMAN