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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.388 of 2007
Cuttack, this the ~~08th~~ day of April, 2009

Ashok Kumar Gochhayat Applicant
Versus
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 the CAT or not?

(C.R. MOHAPATRA)
MEMBER (ADMN.)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.388 of 2007
Cuttack, this the ~~08~~⁰⁹ day of April, 2009

C O R A M:

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

Shri Ashok Kumar Gochhayat, aged about 29 years, Son of Late Sridhara Gochhayat, B.T.No.3265, At/Po.Dasarathapur, PS-Mangalpur, Dist. Jajpur.

.....Applicant

By Advocate : M/s.Brajaraj Dash, U.Padhi, M.Mohapatra, S.B.Das.
- Versus -

1. Union of India represented through General Manager, India Government Mint, Alipore, Kolkata-7500053.
2. Deputy General Manager, Heads of the Department, India Government Mint, Alipore, Kolkata-7500053.

....Respondents

By Advocate - Mr.S.Mishra

O R D E R

MR.C.R.MOHAPATRA, MEMBER (A):-

Ashok Kumar Gochhayat (Applicant in this OA) is the son of Late Sridhara Gochhayat, a Class IV employee under the Respondents who breathed his last on 27.08.2001 prematurely leaving behind (as is evident from Annexure-11 the legal heir certificate), his widow, three sons and one unmarried daughter out of which one son was minor. Initially, the widow of the deceased sought appointment on compassionate ground which was subsequently withdrawn by her with request to provide appointment in favour of his son - the present applicant. Such request was rejected and communicated vide Annexure-9 dated 22-02-2007 aggrieved by which this OA has been filed seeking the following relief:

"to direct the Respondents to appoint the applicant in class IV post on compassionate ground with every declaration to set aside the impugned memorandum as Annexure-9 is quite illegal and improper."

2. The stand of the Respondents is that on receipt of the DOP&T's OM No. 14014/6/1994-Estt.(D) dated 09/10/1998 and subsequently O.M. No.14014/19/2002-Estt.(D) dated 05/05/2003 and the then Deputy General Manager (HOD) by its order dated 27/11/2003 constituted a Committee to examine the applicants for the compassionate appointment for last 3 (three) years i.e. 2001-2003 vide Office Note dated 27/11/2003. A list of pending cases for providing compassionate appointment for the period 2001-2003 was prepared for consideration on the basis of the pecuniary condition of the family. The name of Shri Ashok Kumar Gochhayat was included in the list of pending cases for compassionate appointment for the year 2001-2003 as per Govt. of India, Ministry of Personnel, Public Grievances and pension, Department of Personnel and Training O.M. No. 14014/19/2002-Estt.(D) dated 05/05/2003. It is observed that Sri Ashok Kumar Gochhayat is not at all coming under the zone of consideration for appointment on compassionate ground as per norms and guidelines so prescribed in the matter of such appointment. Though his name has been included in the list at Sl.No.11 but his position in the list is 9 as per recommendation of the Screening Committee. Accordingly, they have objected the stand of the Applicant made in this OA and prayed for dismissal of this OA. By filing rejoinder the Applicant more or less reiterated the stand taken in the OA.

3. Having heard the rival submission of the parties perused the materials placed on record.

4. It is the contention of the Applicant that after the death of his father there being no other source of income the family has been continuing in a state of penury. But without due application of mind the Respondents rejected the claim of appointment on compassionate ground which is not sustainable in the touch stone of judicial scrutiny being contrary to the mandate provided in Article 14, 16 and 21 of the Constitution of India. Accordingly, he has prayed for quashing of the order of rejection under Annexure-9 with direction to the Respondents to reconsider the case of the applicant.

5. On the other hand, Learned Additional Standing counsel appearing for the Respondents opposed the contention of the applicant by stating that since there has been no injustice caused in the decision making process of consideration, there is hardly any scope for this Tribunal to interfere. It has been contended by him that sustenance of the family all these years i.e. from the death of the Government servant till date is sufficient to justify the action of the Respondents in denying the appointment on compassionate ground. He has vehemently contended that though providing employment on compassionate ground is a benevolent legislation there is no justification to extend the said benefit to a member of the deceased family after such long lapse of time. Accordingly, he has reiterated the stand taken in the counter. In support of his contention that there was fair consideration he has also produced

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copies of the list prepared by the Screening Committee and I have perused the same.

6. According to the Respondents which is also evident from the list prepared and produced, they have categorized the candidates on the basis of the principles/guidelines issued by the Ministry of Defence. The principles/guidelines adopted by the Ministry of the Defence have been approved by this Tribunal in very many cases in past. As extracted in other cases, the guidelines/principles provide for the categorization of the cases in the following fashion:

Monthly income of earning member(s), income from property and points to be awarded:

(i)	No income	05
(ii)	Rs.1000 or less	04
(iii)	Rs. 1001 to 2000	03
(iv)	Rs. 2001 to 3000	02
(v)	Rs.3001 to 4000	01
(vi)	Rs. 4001 and above	Nil

No. of dependents:

(i)	3 and above	15
(ii)	2	10
(iii)	1	05

No. of unmarried daughters:

(i)	3 and above	15
(ii)	2	10
(iii)	1	05
(ii)	Nil	

No. of minor children:

(i)	3 and above	15
(ii)	2	10
(iii)	1	05
(iv)	None	00

Left over service:

(i)	0-5	02
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- (ii) Over 5 & upto 10 years 04
- (iii) Over 10 & upto 15 years 06
- (iii) Over 15 & upto 20 years 08
- (iv) Over 20 years 10

7. According to the Respondents applicant has been categorized at Sl.No.9 based on the marks awarded on different aspects in accordance with the principles stated above and, as the applicant could not be accommodated within the time stipulated in the order of the Government of India, the applicant has lost his claim for appointment on compassionate ground. Details of liability and ranking of some of the candidates' vis-à-vis the applicant are reproduced below:

1. D.K. Singh - died on 25.4.2001 leaving behind one son two daughters (7 years) placed at Rank-1;
2. Haridas Das - died 26.5.2001 - leaving behind widow, daughter-1 minor - ranked 8.
3. Sukumar Mondal - died on 24.5.2002 leaving behind widow, daughter-2 minor - ranked 6.
4. Mukhdeo Ram died on 18.3.2001 leaving behind one son three unmarried daughter ranked 3
5. Sridhar Gochhayat died on 27.8.2001 leaving behind widow, three sons (out of which one minor) and one unmarried daughter-ranked at Sl.No.9.


8. From the above, I am convinced that the consideration and ranking assigned to candidates has been made strictly in compliance of the principles noted above. However, I find that the decision of the Government of India providing for consideration of the request of the candidate three times has not properly been followed by the Respondents in the present case.

9. In view of the above, this Original Application is disposed of with direction to the Respondents to re-consider the case of the Applicant

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three times as per the extant Government of India instructions on the subject and reiterated by this Tribunal in several cases in past. No costs.


(C.R. MOHAPATRA)
MEMBER (ADMN.)

Knm,ps

