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O.A. No. 255 of 2008

Order dated: 02.02.2009

CORAM:

Hon'ble Shri C.R.Mohapatra, Member (A)

Heard Mr. T.Nanda, Ld. Counsel appearing for
the applicant and Mr. D.K.Behera, Ld. Additional Standing
Counsel for the Respondents.

2. Applicant's husband, who was working as Mail
man under RMS 'K' Division, Jharsuguda in the Postal
Department, died on 22.10.2001. The applicant made
representation for compassionate appointment under the
Rehabilitation Assistance Scheme. With reference to the
letter from the Superintendent, RMS 'K' Division,
Jharsuguda dated 05.09.2002, the applicant furnished all
relevant documents in support of her claim for
compassionate appointment. After waiting for almost three
years, she again submitted representation. Thereafter, the
Superintendent, RMS 'K' Division, Jharsuguda informed the
applicant as under:

"that the liability of your family is
only one minor daughter and the
widowed mother of the deceased Govt.
servant. Moreover, due to want of
vacancy your application for
compassionate appointment has been
rejected by the Chief Postmaster General,

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Orissa Circle, Bhubaneswar vide letter No. RE/CRC/2004 dated 10/11 February, 2004."

3. Due to indigent condition of the family, she kept pursuing her claim for appointment on compassionate ground. The Assistant Director, in the Office of Chief Post Master General, Orissa Circle, vide letter dated 30.07.2007 conveyed the following:

"that your case was duly considered by the Circle Relaxation Committee in the meeting held on 14.01.2004, but the case was not approved by the CRC since there were limited vacancies against which more deserving cases were approved.

I regret to say that now there is no scope to reconsider the case."

Being aggrieved with this order, the applicant has approached this Tribunal seeking the following relief:

"...Respondent No.2 may be directed to appoint the applicant on compassionate ground as early as possible as the matter is too delayed.

4. The applicant contends that she is at the age of about 32 years and has passed +2 from the Council of Higher Secondary Education, Orissa and, she has to look after the old ailing mother-in-law and a minor daughter, who is only 9 years old. Her annual income is only Rs. 17,760/-

and the family pension, which she is getting, is inadequate to maintain the family. She further contends that during the long gap of 2001 to 2008 it is inconceivable to believe that there was no vacancy available for offering appointment to her on compassionate ground and according to her information number of posts are available and she may be engaged under the rehabilitation assistance scheme which has not yet been done, due to laches, lapses and negligence committed by the authority.

5. The Respondents by filing counter have opposed the prayer of the applicant. The Respondents submit that the applicant had applied for compassionate appointment on 25.10.2002 and CRC in its meeting held on 14.1.2004 considered and rejected the case of the applicant on the ground that all the three sons are grown up and there is no liability. Accordingly, she was conveyed vide letter dated 07.03.2006. Respondents have enclosed the copy of the minutes of the meeting of the CRC dated 14.01.2004 at Annexure-R/1. Respondents further submitted that taking into consideration the financial condition of the family, its assets and liability, size of the family, number of minor sons and daughter, grown up unmarried daughters and number of

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vacancies available under compassionate quota vis-à-vis the circumstances leading to the death of the Govt. servant and age of the Govt. servant at the time of death, the case of the applicant was not recommended due to the reason that it is not a case of indigence in comparison to selected candidates. Respondents have cited decisions of the Apex Court to emphasise that Courts and Tribunals cannot direct compassionate appointment on the ground of sympathy disregarding the instruction/law on the subject and also cannot direct appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.

6. The applicant has filed rejoinder pointing out that a false statement has been made in the counter to the effect that the CRC held on 14.01.2004 rejected her case on the ground that all the three sons are grown up and there is no other liability and, this is what was communicated to the applicant on 07.03.2006. The applicant points out that under the letter 07.03.2006 nothing has been stated except the ground of rejection, i.e. want of vacancy. The applicant further contends that a communication dated 30.07.2007 vide Annexure-6 has given her another ground that ^{more} ~~no~~

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deserving cases were available to be considered for compassionate appointment. Applicant in his rejoinder has pointed out that the case of compassionate appointment should be considered for three consecutive years, if not considered due to ^{more} ~~no~~ deserving cases against 5% vacancy quota. This implies that three chances are still with the applicant for consideration of her case for compassionate appointment.

7. Having heard Ld. Counsel on either side, I perused the materials placed on record.

8. It is seen ^{from} ~~form~~ the counter as well as from hearing that the case of the applicant has been considered only once, which is stated ^{to be} ~~on~~ 14.01.2004. However, the minutes of the CRC meeting held on 14.01.2004 at Annexure-R/1 does not indicate that the case of the applicant was considered in this meeting. It is also observed that whereas the applicant is having one minor daughter and old ailing mother-in-law, in the counter it has been mentioned that her three sons are grown up and there is no other liability and that is the reason that the case of the applicant has been rejected by the CRC in its meeting held on 14.01.2004. Annexure-R/1 does not support this contention

made by the Respondents in the counter. It appears that the case of the applicant has not been considered in terms of the existing instruction of the Department of Personnel and Training on the subject. Under the extant instruction, the applicant is entitled for consideration for compassionate appointment in three consecutive years, which does not seem to have been scrupulously followed by the Respondents.

9. In the light of the above, I ^{come to} found to the conclusion that the case of the applicant has not been given a fair treatment and she is entitled to be considered for three consecutive years in terms of the extant instructions. Accordingly, Respondent No.2 is directed to consider the case of the applicant for compassionate appointment and pass a reasoned order within a period of 60 days from the date of receipt of a copy of this order.

10. The O.A. is allowed to the extent indicated above. No costs.


MEMBER (A)