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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.86 of 2008
Cuttack, this the 16th day of March, 2009

Ahalya Rout & Anr. Applicants
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.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.86 of 2008
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→ C O R A M:

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

1. Smt.Ahalya Rout, Aged bout 56 years, Wife of Late Niranjan Rout.
2. Deepak Kumar Rout, Aged about 40 years, S/o.Late Niranjan Rout.

Both are residing at Nuapada, PO. Nuapada, Via. Balipada, Dist. Kendrapara.

.....Applicants

By Advocate: Mr.D.K.Mohanty.

- Versus -

1. The Union of India represented through its Director General of Posts, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, Khurda, PIN – 751 001.
3. Senior Superintendent of Post Offices, Cuttack North Division, Cuttack-1.

....Respondents

By Advocate :Mr.S.Barik, ASC.

O R D E R

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

Late Niranjan Rout while working as GDSBPM of Nuapada BO died prematurely on 03.02.2004. After his death his widow (Applicant No.1) submitted application seeking employment on compassionate ground in favour of her son (Applicant No.2) to over come the distress condition of the family. The said request was rejected on 27.X.2004 on the grounds that (i) the Ex-GDSBPM, Late

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Niranjan Rout expired on the date of his superannuation and (ii) All children of the deceased GDS officials are grown up and the sons are also married. The said order of rejection dated 27-0X-2004 was challenged by the Applicants in OA No.164 of 2007 in this Tribunal. This Tribunal vide its order dated 28th September, 2007 disposed of the OA No. 164 of 2007 directing as under:

“2. The rule on the subject of compassionate appointment for the family of GDS employees is that a suitable job in ED cadre may be offered to one dependent of an ED official who dies while in service leaving the family in indigent circumstances subject to the conditions applicable to regular employees who die while in service or retire on invalid pension. Such employment to the dependant should, however, be given only in very hard and exceptional cases.

3. There is no specific bar in the Rules for considering the case of the family member for compassionate appointment, of an employee who died on the date of his superannuation. Death on the last day of service is also death while in service. As such, rejecting the case of the applicants on the ground that the 2nd applicant's father died on the last date of his service is violative of rules.

4. The OA is, therefore, disposed of with a direction to the Respondents to consider the case of the applicants in accordance with the extant rules and regulations, contrasting the financial position and other attendant aspects with those of others for arriving at a conclusion whether the applicant No.2 comes within the category of “deserving case” and if so, take further action. In case the applicant's case falls off the category of deserving cases, then by a reasoned order, the applicants be informed and while so doing, they must be afforded with the details)details of financial condition, family members etc.,) of those cases where on consideration along with the case of the applicants, appointment has been offered. Consideration of the case shall be in the next Circle

Relaxation Committee meeting and shall repeat as per rules.”

2. In compliance of the dated 28th September, 2007 of this Tribunal, quoted above, the Respondents reconsidered and rejected the case of the Applicants. The said order of rejection dated 18.12.2007 is impugned in this OA as Annexure-A/3. The relevant portion of the order of rejection is extracted herein below:

“As per direction of the Hon’ble Tribunal, the case of the applicant was put up before the Circle Relaxation Committee which met on 10.12.2002 for reconsideration. The late official died on the date of retirement with no service left. There are no minor children in the family to be taken care of. Both the sons are major and capable of fending themselves. The family has got landed property and derives income Rs.9000/- per annum from it. Not a deserving case for consideration. Therefore, the Circle Relaxation Committee did not recommend the case of the applicant for compassionate appointment.”

Hence by filing this Original Application the Applicants sought for the following relief:

- “(i) To quash the order of rejection dated 18.12.2007 under Annexure-A/3;
- ii. To direct the Respondents to reconsider and provide appointment in favour of Applicant No.2 on compassionate ground;
- iii. To pass any other order/orders as deemed fit and proper.”

3. In the counter filed by the Respondents it has been averred that the case of the Applicant No.2, in compliance of the order of this Tribunal dated 28th September, 2007 in OA No. 164 of

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2007 was duly considered by the CRC comprising high level officers.

As per the Income Certificates Applicant No.1 is having income of Rs.5000/- from Agricultural land and Rs.2000/- from other sources and Applicant No.2 is deriving income of Rs.4000/- from Agricultural Land and Rs.2000/- from other sources making the total income of the family as Rs.9000/- from Agricultural Land and Rs.4000/- from other sources and as such, the family cannot be said to be in indigent condition to be provided with employment on compassionate appointment. They have also reiterated that the GDS employee expired on the date of his retirement and children are grown up. By relying on the instructions of the DOP&T dated 11.5.1994 and the decision of the Hon'ble Apex Court in the case of LIC of India v Mrs.Asha Ramachandra Ambekar and another, JT 1994(2) SC 183 and in the case of U.K.Nagpal v State of Harayana and others, JT 1994(3) SC 525 it has been averred by the Respondents that the Tribunal cannot direct for appointment on compassionate ground and only can direct for consideration. Since the case of the Applicant was found to be not indigent the same was rejected and communicated to the Applicant which warrants no interference.

4. Learned Counsel besides highlighting some of the points raised in the Original Application submitted that there was no

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proper and fair consideration of the case of the Applicant No.2. His contention is that there has been gross injustice caused in the decision making process of the matter because there has been no land in the name of the son of the deceased. The income shown in both the income certificates is out of the lands standing in the name of the Applicant No.1 but without due application of mind, the CRC clubbed both the income shown from landed property and rejected the case even without causing any physical enquiry to find out whether indigent condition exists so as to be provided with the employment on compassionate ground. But there was no satisfactory reply to the arguments advanced by Learned Counsel for the Applicant nor does the Learned Standing Counsel satisfy by producing extract of the opinion of the CRC showing the comparison between the applicant and other cases as directed by this Tribunal earlier.

5. While disposing of the earlier OA, this Tribunal in order dated 28th September, 2007 after holding that date of death on the last day of retirement cannot be a bar for providing employment on compassionate appointment, directed the Respondents as under:

“4. The OA is, therefore, disposed of with a direction to the Respondents to consider the case of the applicants in accordance with the extant rules and regulations, contrasting the financial position and other attendant aspects with those of others for arriving at a conclusion whether the applicant No.2 comes within the category of

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“deserving case” and if so, take further action. In case the applicant’s case falls off the category of deserving cases, then by a reasoned order, the applicants be informed and while so doing, they must be afforded with the details (details of financial condition, family members etc.,) of those cases where on consideration along with the case of the applicants, appointment has been offered. Consideration of the case shall be in the next Circle Relaxation Committee meeting and shall repeat as per rules.”

But from the order as also counter it is seen that the Respondents have reiterated the same stand based on which earlier rejection order was passed. Similarly on perusal of the order of rejection vis-à-vis the Income Certificates it is seen that incomes shown from the landed property in both the certificates have been clubbed together as against the specific stand of the applicant that it should have been taken as one income. Besides it is seen that no comparison statement as directed by this Tribunal in regard to the case of applicant and cases in whose favour recommendation has been given by CRC has been provided by the Respondents. That apart, this Tribunal had specifically directed to repeat the consideration as per rules and rule provide for three times consideration.

6. In view of the above, I find substantial force in the contention of the Learned Counsel for the Applicant. Accordingly, the impugned order under Annexure-A/3 dated 18.12.2007 is hereby quashed and the matter is remitted back to the Respondents

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for reconsideration of the case of Applicant No.2 in the light of the direction given by this Tribunal in earlier OA.

7. As a result, this OA stands allowed with the observations and directions made above. No costs.


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

Knm,ps

