

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 738 of 2010
Cuttack, this the 19th day of October, 2011

Asma Khatun & Anr Applicants
-v-
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?

(C. R. MOHAPATRA)
Member (Admn.)

12

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.No. 738 of 2010

Cuttack, this the 19th day of October, 2011

C O R A M:

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

1. Asma Khatun, Aged about 55 years, wife of Late Agha Ahmed, Jhola Sahi, Post-Buxibazar, Cuttack-1;
2. Agha Hasmat, Aged bout 30 years, Son of late Agha Ahmed, Jhola Sahi, Post-Buxibazar, Cuttack-1.

..... Applicants.

By legal practitioner: Mr.D.K.Mohanty, Advocate.

-Versus-

1. 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, Dist. Khurda, Pin-751 001.
3. Senior Superintendent, RMS 'N' Division, Cuttack-753 001.

.... Respondents.

By legal practitioner: Mr.U.B.Mohapatra,SSC

O R D E R

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

Applicant No.1 is the widow and Applicant No.2 is

the son of Late Agha Ahmed who was a regular Sorting Assistant working under RMS 'N' Division Cuttack and while working as such he died on 14.01.1987. As Applicant No.1 was illiterate and none else was there to take care of the minor children (two daughters and two sons) she made a representation expressing her unwillingness to take up employment with request to keep the opportunity of scheme of compassionate appointment open, till her son attains majority. Her request was accepted and she

1

was intimated vide letter No. B9-11/Ch.II/CH-1 dated 11.05.1988 that as per the instructions from CO vide CPMG Letter No. RE/17-29/87 dated 06.05.1988, she may renew her prayer no-sooner her son (Applicant No.2) attains majority. Applicant No.2 attained majority in 1998 and on 11.06.1998 the lady requested for consideration of the case of Applicant No.2 for employment on compassionate ground. On receipt of the request of Applicant No.1, the Division Office collected the relevant documents i.e. synopsis, brief history, income certificate undertakings etc and sent the same to the Circle Office vide Letter No. B9/11/Ch-11 dated 15/16.09.1998 for according approval. The matter was under correspondence between Division Office and Circle office for a long time and finally, Applicants were intimated to submit willingness as per the instructions of the CO No. RE/17-29/87 dated 28.11.2000. Applicant No.1 submitted her willingness in time which was sent to CO vide Division Office letter No. B9-11/CH-111 dated 19.12.2000. Since this is a belated claim (five years or so), as per the standing instruction dated 28.12.1998, the matter was referred to the Directorate/Ministry for taking a decision in the matter. Finally, the prayer of the applicant was rejected and intimated to them. Applicants preferred appeal but the same was rejected and communicated to the Applicant after which

L

they have approached this Tribunal in OA No. 808 of 2006. This Tribunal disposed of the OA No. 808 of 2006 on 23.4.2007 directing the Respondents to reconsider the case of the Applicant No.2. In compliance of the order of this Tribunal, Respondents reconsidered the case of the Applicant No.2 but rejected and intimated to the applicant in letter dated 6.7.2007. The said order of rejection dated 6.7.2007 was challenged by the Applicants in OA No. 250 of 2008 which was disposed of by this Tribunal on 20.8.2009 directing the Respondents to consider the case of the applicant No.2. Again, in compliance of the order of this Tribunal, Respondents considered the case of the Applicants but rejected the claim of the applicants for the reasons intimated in letter dated 1.12.2009 which order they impugned in this OA with prayer to quash the order of rejection and direct the Respondents to provide the applicant No.2 appointment on compassionate ground as the applicants are still in indigence.

2. The contention of the Respondents in nut shell is that there has been no wrong in rejecting the claim of the Applicants. They have averred that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family from financial destitution. The present claim has come much after the death of

the deceased Government employee. Besides, they have stated that compassionate appointment can only be made if there is a vacancy under the specific quota. But there was no vacancy under the compassionate quota to accommodate the Applicant No.2. Their contention is that High Courts and Administrative Tribunals cannot give direction for appointment of a person on compassionate ground but can merely direct for consideration of the claim for such appointment. Since the case of the Applicant No.2 has received due consideration and was rejected with reasons, there is hardly any scope for interference in the order of rejection.

3. Learned Counsel for both sides reiterated their arguments based on the submissions made in the pleadings. I have carefully gone through the records placed by the parties. In this case the family of the deceased has managed to survive in absence of any bread earning member for the last 24 years after the death of the employee. Neither appointment on compassionate ground can be claimed as a matter of right nor is it an alternative mode of appointment. It is a benevolent scheme promulgated to allow the living members of the family to overcome the sudden jerk caused after the death of the bread earner. Since instructions of the DOP&T directing three times consideration could not be met by the Respondents, this

16

-5-

Tribunal directed reconsideration and as it appears even after three times consideration no berth was found for the applicant No.2 over and above the claims of others. Hence the Respondents have rejected the claim and intimated to them. It is not for this Tribunal to decide whose case is befitting to be provided with employment assistance. If consideration is in accordance with Rules and instructions, this Tribunal can hardly interfere in it. On examination of the order of rejection vis-à-vis the case of the applicant and the objective of the scheme, we do not find any scope especially when the death of the Government was 24 years before, to interfere in the matter. Hence this OA stands dismissed. No costs.


(C.R. MOHAPATRA)
Member (Admn.)