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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A NO. 790 OF 2010

Cuttack this the 17th day of February, 2013

CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Tunirani Das,
aged about 37 years,
W/o. Late Natabar Das
Village-Nimakana
PO- Manijanga
PS- Tirtol,
Dist. Jagatsinghpur.

... Applicant

By the Advocate: Mr.T.Barik
-VERSUS-

Union of India represented through

1. Director General Posts
Dak Bhawan
New Delhi-110001.

2.Chief post Master General,
Orissa Circle
Bhubaneswar,
Dist- Khurda.

3.Director of Post Offices,
Bhubaneswar,
Dist, Khurda.

4.Superintendent of Post Offices,
Cuttack South Division,
Town/Dist, Cuttack-753001

By the Advocates: Mr. U.B. Mohapatra, SSC

ORDER

SHRI R.C. MISRA, MEMBER(A):

The facts of the case in short are that the applicant's husband, who was a Driver in the Office of Respondent No.4, viz., Superintendent of Post Offices, Cuttack South Division, expired on 1.3.2000. The prayer of the applicant for compassionate appointment having been rejected by the Respondents, she had earlier approached this Tribunal in O.A.No.234/02. This Tribunal, vide order dated 20.1.2003 quashed the order of rejection which was impugned therein and directed the Respondents to provide a compassionate appointment (Group-D post) to the applicant by granting necessary relaxation in qualification, if any. Challenging the above decision of the Tribunal, the Respondents moved the Hon'ble High Court of Orissa which formed the subject matter of W.P.(C) No.5833/06. The Hon'ble High Court vide order and judgment dated 8.5.2006 quashed the order of the Tribunal and also upheld the decision of the Postal Authorities in giving compassionate appointment to one Anjali Patnaik, who was recommended by the Circle Relaxation Committee



as the most deserving one amongst the four candidates considered for compassionate appointment.

2. Thereafter the applicant again moved the Hon'ble High Court of Orissa in W.P.(C) No.12635/2010, which was subsequently, vide order dated 16.8.2010 disposed of as withdrawn granting liberty to the applicant to file appropriate application before the Tribunal. Consequently, the applicant has approached this Tribunal in the instant Original Application with a prayer for issuing direction to the Respondents, more specifically, the Circle Relaxation Committee to provide compassionate appointment to her in any group-D post of Cuttack South Postal Division.

3. In support of her case, the applicant has furnished information dated 23.12.2009 received by her through RTI Act (Annexure-5) showing that the total number of vacancies in Group-D cadre of Cuttack South Division are 10. Based on this, it has been submitted by the learned counsel that since the applicant's family is indigent, she should be provided with compassionate appointment. It has also been submitted that as in the meantime, all the other more deserving candidates considered along with the applicant by the CRC have



already been given compassionate appointment, there is no hurdle on the part of the Respondents to consider her case keeping in view the availability of 10 nos. of vacancies in Group D cadre.

4. In the counter filed by the Respondents, it has been submitted that the applicant is not justified in her prayer in view of the judgment of the Hon'ble Supreme Court in the case of Life Insurance Corporation of India vs. Asha Ramachandra Ambekar & Ors. (AIR 1994 SC 2148) wherein it has been held that the High Courts and the Administrative Tribunals cannot give direction for appointment of a person on compassionate grounds. Moreover, the Hon'ble High Court having quashed the earlier orders of this Tribunal in which the relief had been granted, there is no scope for the applicant to seek any relief from the Tribunal. A further submission has been made that the Hon'ble Apex Court has ruled in the case of Himachal Pradesh Road Transport Corpn. Vs. Dinesh Kumar on 9.10.1996 that appointment on compassionate ground can be made only if vacancies are available for the purpose. According to Respondents, the case of the applicant was considered on 21.11.2001 as per the availability of the

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vacancies on that date in respect of compassionate appointments and result thereon had been communicated to her. In course of hearing, the learned counsel for the Respondents submitted that the information regarding 10 nos. of vacancy position in Group-D cadre as obtained by the applicant through RTI Act are all meant for Direct Recruitment quota, 5% of which works out to nil vacancy and in the circumstances, by no stretch of imagination her case could be considered for compassionate appointment. Respondents have therefore, submitted that the O.A. being devoid of merit is liable to be dismissed.

5. We have heard the learned counsel for both the sides and perused the materials on record. We have also gone through the order and judgment of the Hon'ble High Court of Orissa in W.P.(C) No. 5833/06. It was the specific observation made by the Hon'ble High Court of Orissa therein that the case of Anjali Pattnaik, who is the widow of a Postman and is having financial burden of four marriageable daughters, besides minor son was undoubtedly more deserving candidate for giving compassionate appointment in

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comparison to OP No.1 who was having two minor sons and one minor daughter aged about 8, 7, and 4 years respectively and also mother in law aged about 70 years. It was also considered in the judgment of the Hon'ble High Court that there was only one vacancy in Group-D post available for compassionate appointment quota and Smt.A.Patnaik being the most deserving one her case has rightly been selected for giving compassionate appointment by the concerned authorities.

6. As per the ruling of the Hon'ble Apex Court the Tribunal cannot issue any direction for appointment to a post of a person on compassionate ground. However, direction can be issued to consider the case for compassionate appointment based upon the eligibility criteria, availability of vacancies and above all the indigent condition of the family after the death of the sole bread winner.

7. In the present case, the matter having⁵ already been adjudicated and the decision taken by this Tribunal, subsequently, in judicial scrutiny by the Hon'ble High Court, rendered void and it was held by the Hon'ble High Court that the decision of the authorities for giving compassionate appointment to the most deserving person, viz.

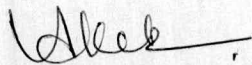
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Smt.Anjali Pattnaik was proper. In view of this, we are not inclined to grant any relief as sought by the applicant in this O.A. Accordingly, the O.A. is dismissed. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
(MEMBER(J))

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