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**O.A. No. 211 of 2011**

Kanhu Ch. Majhi.....Applicant

Vs

Union of India & Ors.....Respondents

**Order dated: 26.09.2011**

CORAM:

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

Heard Mr. P.K.Padhi, Ld. Counsel for the applicant and Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel appearing for the Respondents.

2. Subject matter of the present O.A. filed U/s 19 of the Administrative Tribunals Act, 1985 is for reconsideration of the applicant for grant of compassionate appointment in any GDS post.

3. The applicant's father, who was working as GDS BPM of Soso Branch Post Office in account with Bahalada Sub Post Office in Mayurbhanj Division expired on 29.11.2003 leaving behind the applicant, his mother and three sisters. The applicant belongs to ST community. His sisters have already been married during the life time of his father. Applicant is stated to be continuing his study in Graduation in BJB College, Bhubaneswar and eligible for any type of GDS post in the Postal Department. According



to him, his case was considered by the Circle Relaxation Committee (CRC) but it has been rejected vide Annexure-A/5 Letter No. A-13/Comp.APT/10-11 dated 27.12.2010 on the ground that the family is not found to be in indigent circumstances. According to the applicant, less deserving case has been provided with the compassionate appointment and one such example is of Nilamani Behera, S/o Late Purna Chandra Behera, Ex GDS BPM as cited by him.

4. It is the contention of the applicant that according to the DoP&T O.M. No. 14014/19/2002-ESTT(D) dated 05.05.2003, he is entitled to be considered for compassionate appointment in three consecutive recruitment years whereas he has been considered only once and the rejection order communicated to the applicant is on the ground that family was not found to be in indigent circumstances.

5. Respondents by filing counter have stated that the annual income from the agricultural sources is Rs.13000/- and from other source is Rs. 3000/- as per the income certificate issued by the Tahasildar, Bahalda. The annual income of the widow is Rs. 20,000/- from agricultural land. The SPO, Mayurbhanj did not recommend

his case and the CRC rejected the case due to the reason that the family was not found to be in indigent circumstances. Respondents have also pointed out at Annexure-R/1 that severance allowance of Rs. 30,000/- has been paid to the family of the deceased employee. By citing an order of the Hon'ble Supreme Court dated 04.05.1994 in the case of Umesh Kumar Nagpal vs State of Haryana and Others, Respondents have submitted that only dependent of the employee dying in harness leaving his family in penury and without any means of livelihood need to be appointed on compassionate ground. However, the case of applicant was not approved by the CRC, which considered his case along with others. In paragraph 12 of the counter, the Respondents have submitted that the OM dated 05.05.2003 as mentioned in para, the maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years subject to the condition that the prescribed committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. The case of the applicant, according to the Respondents, has been considered carefully by the Competent Committee for appointment on compassionate

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ground and did not find the family to be in indigent circumstances. Therefore, the case cannot be considered further.

6. Having heard Ld. Counsel for the parties, perused the available record.

7. The fact that the DoP&T O.M. No. 14014/19/2002-ESTT(D) dated 05.05.2003 prescribes consideration of the case of the applicant for three years is not disputed by the Respondents. This Tribunal has already held in many cases that the three years would imply three consecutive recruitment years insofar as filling up of vacancies for compassionate appointment is concerned. It is also not in dispute that the applicant has been considered only once by the CRC and rejected on the ground that his family is not in indigent circumstances. The payments which have been made to the family in the form of ex gratia amount and severance allowance cannot form the basis while deciding the penurious condition of the applicant as these are legitimate dues of the family of the deceased employee. From the rejection order at Annexure-A/5, it is not forthcoming as to what are the factors which have been

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taken into account to determine the degree of indigence of the applicant vis-à-vis others.

8. In the light of above observation and circular of the DoP&T, it is felt that the applicant's case deserves reconsideration by the Respondents for two more occasions for compassionate appointment. Ordered accordingly. The result of such reconsideration shall be communicated through a reasoned order by the Respondent No.2 within one month of the meeting of the C.R.C.

9. With the above observation and direction, the O.A. stands disposed of. No costs.

  
MEMBER (Admin.)

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