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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No. 491 of 2011

Keshab Kumura Applicant

Vs

Union of India & Others. Respondents

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Order dated -02-08-2011.

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

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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Heard learned Counsel for both sides and perused the materials placed on record.

2. In this Original Application filed under section 19 of the Administrative Tribunals Act, 1985, the prayer of the Applicant is to quash/set-aside the notification under Annexure-A/8 dated 18.7.2011 inviting application for the post of GDSBPM of Kinaloi GDS BO in account with Laida SO. His further prayer is to direct the Respondents to appoint the applicant in the said post on compassionate ground by giving due weightage to his working experience in the said post.

3. His contention is that his father was working as GDSBPM of Kinaloi GDS BO and while working as such he died on 02-02-2009. After his death, the applicant applied for appointment on compassionate ground in the said post. The said

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prayer of the applicant was rejected and communicated to the applicant in letter dated 24.6.2010. The Applicant challenged the said order of rejection in OA No. 434 of 2011. This Tribunal disposed of the OA by directing the Respondents that in terms of DoPT OM dated 5.5.2003 the case of the applicant needs consideration on two more occasions which the Respondents shall do and intimate the result thereof to him. While the matter stood thus and nothing has been communicated to the applicant in compliance of the order of this Tribunal, Respondents in order to frustrate the claim of the applicant issued notification under Annexure-A/8 inviting application for filling up of the said post by UR candidate. His contention is that he belongs to SC community and as such the post could not have been advertised to be filled up by UR candidate.

4. This was opposed by the learned Counsel appearing on notice for the Respondents. His contention is that the applicant cannot claim as a matter of right to be appointed in the post where his father was working. Further contention of the Respondents' counsel is that which post would be filled up by which category of candidate is exclusively within the domain of the Respondents/authorities and the applicant cannot claim that since he is an aspirant for the post on compassionate ground the

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authorities are estopped to fill up the said post by UR candidate. Hence Respondents' counsel while objecting to the prayer of the Applicant prayed for dismissal of this OA.

5. After considering the rival submissions of the parties we agree with the contentions of the Respondents' Counsel that none can claim as a matter of right to be appointed to the post held by his/her father. Merely because the case of the applicant for appointment on compassionate ground is pending he cannot claim that the post of GDS BPM Kinaloi should be kept vacant. Similarly applicant cannot dictate which post should be filled up under which category. All that the Respondents have to see is that principle of reservation shall have to be properly maintained/ followed in the cadre.


6. However, it is seen that the last date of receipt of application is yet to be over. Applicant claims that he is eligible to be considered for the post in question. Even if the post is meant to be filled up by UR candidate this does not make the applicant ineligible to apply or if he applies and secures more marks in the HSC than any of the UR candidate he cannot be deprived of the appointment merely because the post is to be filled up by UR candidate and he belongs to SC. Therefore, notwithstanding the pendency of his case for appointment on compassionate ground,


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the Applicant is free to apply for the post and the Respondents are hereby directed to consider his application along with others as per Rules.

7. With the above observation and direction, this OA stands disposed of.


(A.K. PATNAIK)
Member (Judl.)


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