

3
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.535 of 2011

Cuttack this the 20th day of November, 2012

CORAM

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Sri S.Rabana Reddy,
Aged about 37 years,
S/o. late S.Ramadas Reddy,
Village-Puruna Chatrapur,
PS-Chamakhandi,
District-Ganjam,
at present residing at Labour Tenament,
Qrs.No.93, P.O. Charbatia,
Dist-cuttack-753028

...Applicant

By the Advocates: M/s.B.S.Tripathy

M.K.Rath

J.Pati

M.Bhagat

-Versus-

Union of India represented through

1. The Cabinet Secretary
to Government of India,
Cabinet Secretariat,
Bikaner House Annexe,
Sahajahan Road,
New Delhi-110 001
2. The Special Secretary,
Aviation Research Centre (ARC),
Head Quarters, D.G.(S),
Cabinet Secretariat,
Govt. of India,
Block-V(East),
R.K.Puram,
New Delhi-110 066
3. The Chief Engineer,
Aviation Research Centre(ARC),
Air Wing,
Head Quarters,

Al

4
Block-V(East),
R.K.Puram,
New Delhi-110066

4. The Deputy Director(Admn),
Air Wing Headquarters,
East Block-V,
R.K.Puram,
New Delhi-110066
5. The Deputy Director(Admn),
Aviation Research Centre (ARC),
At/PO-Charbatia,
Dist-Cuttack-754028
6. The Joint Deputy Director (Pers-B)
Aviation Research Centre,
Director General Security (Cabinet Secretariat),
East Block-V,
R.K.Puram,
New Delhi-110 066

...Respondents

By the Advocates: Mr.D.K.Behera, ASC

ORDER (ORAL)

A.K.PATNAIK, MEMBER(JUDL):

In this Original Application under Section 19 of the A.T.

Act, 1985, applicant has sought for the following relief.

- “i) To pass appropriate orders directing the Respondents to reconsider the case of the applicant sympathetically for providing him an employment on compassionate ground treating the retirement of his late father on medical ground; and
- ii) To pass such further order/orders as are deemed just and proper in the facts and circumstances of the case and all this O.A. with cost.”

2. It is the case of the applicant that his father, while working as Air Craft Assistant(in short ACA) under the Respondent-Department had sought for voluntary retirement on medical ground in the year 2002.

✓

5
His request for voluntary retirement was allowed on 01.03.2004. While the matter stood thus, applicant's father passed away on 18.03.2004. Thereafter, the mother of the applicant submitted a representation dated 24.03.2004 to the Respondent-Department for providing an employment on compassionate ground in favour of her son (the present applicant). The said prayer having been rejected, the applicant moved this Tribunal in O.A.No.649/06. This Tribunal, vide order dated 21.09.2007 dismissed the said Original Application.

3. Aggrieved with the above, the Applicant approached the Hon'ble High Court of Orissa registered as W.P.(C) No.12967/07. The said Writ Application was disposed of on 16.11.2010 with direction to the Applicant to file a representation before Opposite Party No.2 and in such an event, the Opposite Party No.2 to consider and dispose of the said representation in accordance with law. Accordingly, applicant submitted representation dated 25.11.2010 and in consideration of the same, the Respondent-Department turned down the claim of the applicant. Consequently, the applicant challenged the legality of the said rejection before this Tribunal in O.A.No.55/2011, which was disposed of vide order dated 13.05.2011 in the following term.

“...I direct Respondent No.2 to consider and dispose of the representation of the applicant afresh in keeping with the circumstances under which, according to applicant, the similarly placed persons were provided with compassionate appointment (paragraph 8 of the representation, Annexure-A/3)”.

4. While complying with the above direction of this Tribunal, Respondent-Department rejected the representation of the applicant

being devoid of merit vide Annexure-A/6 dated 28.06.2011. Hence, this Original Application with the aforesaid relief.

5. Respondents have filed their counter. It is the case of the Respondents that applicant's father passed away after taking voluntary retirement under Rule-48(A) of CCS (Pension) Rules, 1972, which relates to retirement after completion of 20 years of qualifying service by giving a notice of 03 months in writing to the Appointing Authority. Further case of the Respondents is that applicant's father had not applied for voluntary retirement under Rule-38 of CCS (Pension) Rules, 1972 making him eligible for invalid pension, which is granted to those Government Servants who produces medical certificate from the competent authority showing his incapacitation to continue in service any more. It has also been stated that the cases cited by the Applicant has no relevance to the case of the Applicant. According to Respondents, the case of the applicant having not been covered under DoP&T guidelines as he was not in service when he expired and that he having not retired from service as per laid down rules for retirement on medical grounds, the present O.A. is liable to be dismissed being devoid of merit.

6. Heard Shri M.K.Rath, learned counsel for the applicant and Shri D.K.Behera, learned ASC and perused the materials on record along with the rejoinder filed by the applicant.

7. It is to be noted that after dismissal of O.A.No.649/06 by this Tribunal, applicant moved the Hon'ble High Court of Orissa in W.P.(C) No. 12967/07. It reveals from the order of the Hon'ble High Court that on a Memo filed by the learned counsel for the applicant

Al

7


stating therein that similarly situated persons, namely, Prakash Nayak, Baikuntha Balabantaray, Anadi Charan Swain had been considered for appointment on compassionate ground, the Hon'ble High Court directed the petitioner to file a representation to OP No.2 in this regard. On a reference being made to Annexure-A/4 dated 11.1.2011 as communicated to the applicant it is made clear that the compassionate appointment to the persons named in the order of the Hon'ble High court had been given due to death of the Government servants while in service. When pointed out, Shri M.K.Rath, learned counsel for the applicant submitted that as the applicant had applied for voluntary retirement on medical grounds in the year 2002 which was allowed in the year 2004, it should be deemed that applicant's father had voluntarily retired from service on medical ground only and therefore, application of Rule-48(1) of CCS (Pension) Rules, 1972 is out of place. This was strongly opposed by Shri D.K.Behera, learned ASC Learned Additional Standing Counsel appearing for the Respondents.

8. I have considered the above submission made by Shri Rath. But it is too late in the day to advance such a proposition which in the present state of affairs is nothing but misconceived. In the circumstances, I hold that the father of the applicant having expired after taking voluntary retirement from service, his case cannot be covered under the scheme of compassionate appointment issued by the Government of India. The case of the Applicant as it reveals from the record is not covered by the case cited by him. In the above premises, I

Al

8

find no merit in this OA. Hence this OA is dismissed by leaving the
parties to bear their own costs.


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

BKS,PS

