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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO.587 of 2011
Cuttack this the 12/8 day of August, 2013

CORAM

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

Laxmidhar Sahoo
Aged about 26 years
S/o. late Trilochan Sahoo
Village-Jamadeipur Patna
PS/Dist-Nayagarh

...Applicant

By the Advocate(s)-Mr.P.K.Padhi

-VERSUS-

Union of India represented through

1. Post Master General, Orissa,
Bhubaneswar,
Dist-Khurda
2. Chief Post Master General,
Orissa Circle,
Bhubaneswar, Dist-Khurda
3. Director of Postal Service,
Office of CPMG,
Bhubaneswar,
Dist-Khurda
4. Senior Superintendent of Post, Puri
At/PO/Dist-Puri
5. The Inspector of Posts,
Nayagarh East Sub-Division
Nayagarh
Po/Dist-Nayagarh

...Respondents

By the Advocate(s)-Mr.G.Singh

ORDERHON'BLE SHRI R.C.MISRA, MEMBER(A)

Applicant has approached this Tribunal with a prayer that the Respondents may be directed to give him an appointment under the Rehabilitation Assistance Scheme by quashing the impugned order dated 27.12.2010(Annexure-A/11) which has been passed by the Chief Post Master General, Orissa Circle, who is Respondent No.2 in this O.A.

2. The brief facts of the case are that the applicant's father while serving as GDSMD, Mandhatapur S.O. under the Department of Posts expired on 5.10.2003 leaving behind four family members as legal heirs. The applicant's mother thereafter made a representation before the Respondent No.3., i.e., the Director of Postal Services, Bhubaneswar praying for a compassionate appointment in favour of her son, the present applicant. Although this application was made in the year 2004, the Respondents did not consider the case of the applicant in spite of several approaches in person. Because of non-response, the applicant had also sent a legal notice to the Respondents. On 20.6.2005, the Respondents intimated the applicant that the prayer for compassionate appointment was before the Circle Relaxation Committee which after going through the records did not recommend this case on the ground that both the sons of the deceased were major and the elder son was already employed and was also extending financial support to the family. The applicant being educated could always compete for a job in the open market. There was no liability of minor children or unmarried daughters in the family and therefore, the family condition was not considered to be indigent. On this ground compassionate appointment was refused. Aggrieved



with this, the applicant approached this Tribunal in O.A.No.124/2005 in which he challenged the decision of the Circle Relaxation Committee. This Tribunal, vide order dated 25.09.2006 quashed the order of rejection of the prayer for employment assistance and directed the Respondents to reconsider the grievance taking into consideration all the materials placed before ^{them} ~~him~~. The Respondents once again in their order dated 13.2.2007 rejected the prayer for compassionate appointment on the grounds as under.

"In pursuance of the direction of the Hon'ble Central Administrative Tribunal, Cuttack Bench, Cuttack, the Circle Relaxation Committee which met on 24.01.2007 reconsidered the case of the applicant for compassionate appointment. The Committee observed that the deceased GDS left behind his wife, mother and two major sons. There is no liability in the shape of minor children or unmarried daughter. One son is also employed. The family has their own building to live in. The family is not in indigent condition. As such there does not seem to be an acute distress which may warrant special consideration of the case. The applicant has not submitted any other additional material in support of his claim that the family is still in penury and his brother is separated from his family. Since the late official was Gramin Dak Sevak and expired on 5.10.2003, the matter has no relevancy with P.C.Swain case in (SPC) No.13377 of 2003".

3. Challenging this order the applicant approached this Tribunal in O.A.No.429.2008. After hearing this case, the Tribunal directed that to give appropriate consideration to the case of the applicant by the CRC, he may be given an opportunity even at this stage to place all the relevant materials and document before the Respondent No.4, who will take further follow up action for reconsideration of the case by the concerned authorities. A direction was issued



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for reconsideration of the case of the applicant in the next available CRC and communication of the decision to the applicant within a period of one month after the meeting of the CRC. After the orders of this Tribunal dated 17.3.2010, the Respondents considered the matter again and the order dated 27.12.2010 passed by the CPMG, Orissa, placed at Annexure-A/11 is in compliance of this order. In this order, the prayer of the applicant was again considered, but was rejected.

4. The learned counsel for the applicant has pleaded that the order passed by the CPMG, Orissa is not in strict compliance of the orders of this Tribunal and has been passed in a most mechanical manner. Therefore, a further reconsideration of the prayer for compassionate appointment is highly warranted. The learned Addl.Central Government Standing Counsel, who appeared for the Respondents and also filed written note of submission has submitted that according to guidelines of the Department of Personnel & Training, a prayer for compassionate appointment should be considered in the CRC three times and then the case should be closed. In the present case the applicant's prayer was considered by the CRC three times and it was the conscious finding of the CRC that the financial condition of the family is sound and the relief by way of giving compassionate appointment was not required in the case. Since the CRC has considered this matter three times, and sufficient deliberation has taken place in this issue, there is no further scope for giving a further consideration in the matter. It is also his case that the Hon'ble Apex Court vide judgment dated 4.5.1999 in the case of

Ramachandran

Umesh Kumar Nagpal vs. State of Haryana & Ors. (JT 1999 (3) SC 525) has decided that offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased is legally impermissible. Further, the Hon'ble Apex Court in the judgment dated 28.2.1995 in Life Insurance Corporation of India vs. Mrs.Asha Ramachandra Ambekar and Ors (JT 1994 (2) SC 183) has held that ^uCorts/Tribunals cannot give direction for appointment of a person on compassionate ground. On the above cited grounds, he has argued that the prayer of the applicant merits no further consideration.

5. Having heard the learned counsels of both the sides, I have also perused the records in this matter.

6. In this case, the applicant had approached this Tribunal by filing two previous OAs and this happens to be the third round of litigation on the prayer for compassionate appointment. The last order communicated by the CPMG, Orissa in compliance of the direction of this Tribunal, on 27.12.2010 as annexed at Annexure-A/11 very clearly speaks that the case of the applicant has been considered three times in the CRC, the dates of the meeting being 6.6.2005, 24.1.2007 and lastly, on 24.11.2010. The reconsiderations made in the CRC on 24.1.2007 and 24.11.2010 are in compliance of the orders of this Tribunal in O.A.No.125/2005 and O.A.No.429/2008. The first consideration of the CRC was on 6.6.2005, which was challenged by the applicant before this Tribunal. In all these meetings of the CRC a finding has been reached that the family was found not ^{to} be in indigent circumstances and on that ground the prayer for compassionate



appointment was not recommended by the CRC. Even in the last meeting of the CRC on 24.11.2010, the applicant's case was considered along with 85 other cases for GDS cadre and in that meeting also the CRC has again rejected the case on the same ground. The CPMG, Orissa (Res.No.2) has also accepted the recommendations of the CRC. It is therefore, crystal clear that the prayer has been considered three times in the CRC ^{and} ² a consistent finding has been arrived at that the concerned family is not in indigent circumstances.

7. I agree with the contention of the learned Addl.Central Government Standing Counsel that compassionate appointment cannot be claimed as a matter of right irrespective of the financial condition of the concerned family. The purpose of giving compassionate appointment is to help the distressed family to overcome the immediate financial crisis. On the basis of the facts available, the CRC in this case has come to a finding that the family is not living in indigent condition. Since the applicant had approached this Tribunal twice earlier and in compliance of the orders of the Tribunal, the matter was reconsidered in the CRC, it is quite clear that the applicant has got adequate opportunity to put forth his facts before the Respondents in connection with the prayer of compassionate appointment. Thereafter the Respondents have taken a final decision that giving compassionate appointment was not warranted in the case since the family was not living in distressed condition.



8. Considering the very facts and circumstances of this case, I find that there is no further scope by the Tribunal to interfere with this matter especially when the CRC which is a duly constituted body has taken into account and considered all the facts and evidence and has come to a conclusion that the family of the applicant is not in distressed condition. Therefore, I am of the considered view that further direction to Respondents to reconsider the prayer of the applicant for compassionate appointment will not yield any fruitful result. In the circumstances, the O.A. is held to be devoid of merit and accordingly, the same is dismissed, leaving the parties to bear their own costs.



(R.C.MISRA)
MEMBER(A)

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