

35


CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 777 of 2011  
Cuttack, this the 7<sup>th</sup> day of January, 2015

B.Rama Rao & Anr.		.....	Applicant
	Versus		
Union of India & Ors.		.....	Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? Yes
2. Whether it be referred to PB for circulation? Yes

  
(R.C.MISRA)  
Member (Admn.)

36  
**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

Original Application No. 777 of 2011  
Cuttack, this the 7<sup>th</sup> day of January, 2015

**CORAM**  
**HON'BLE SHRI R.C.MISRA, MEMBER (ADMN.)**

.....

1. B. Rama Rao,  
S/o. Late B.Narayana,  
aged about 31 years,  
residing at College Road,  
At/Post- Kashinagar, Dist.- Gajapati,  
Odisha, PIN-761206.

2. Smt. B. Santamma  
Wife of Late B.Narayana,  
aged about 58 years,  
residing at College Road,  
At/Post- Kashinagar, Dist.- Gajapati,  
Odisha, PIN-761206.

...Applicants

(Advocates: M/s. G. Rath, D.K.Mohanty )

**VERSUS**

Union of India Represented through

1. Secretary to Govt. of India,  
Ministry of Water Resources,  
Shramashakti Bhawan, Rafi Marg,  
New Delhi-110001.
2. Central Water Commission represented through its Chairman,  
CWC, Sewa Bhawan, R.K.Puram,  
New Delhi- 110066.
3. Chief Engineer, Govt. of India,  
Central Water Commission,  
Mahanadi and Eastern Rivers Organization,  
Plot No. A-13/14, Mohanadi Bhawan,  
Bhoinagar, Bhubaneswar- 750122.
4. The Superintending Engineer, Govt. of India,  
Central Water Commission,  
Hydrological Observation Circle,  
Plot No. A-13/14, Mohanadi Bhawan,  
Bhoinagar, Bhubaneswar- 750122.



5. Executive Engineer,  
Central Water Commission,  
Eastern Rivers Division,  
Plot No. A-13/14, Mohanadi Bhawan,  
Bhoinagar, Bhubaneswar- 750122.

...Respondents

(Advocate: Mr. U.B. Mohapatra )

.....

### **ORDER**

**SHRI R.C.MISRA, MEMBER (ADMN.) :**


The applicants, in the present case, are the son and the wife of an employee of Central Water Commission, Hydrological Observation Circle, at Bhubaneswar, who expired while in service. The applicants have approached the Tribunal with a prayer that the Respondents may be directed to provide appointment to applicant No.1, who is the son of the deceased, on compassionate ground and also for quashing the letter of rejection dated 20.05.2011, which is placed at Annexure-A/8 of the O.A.

2. The short facts of the case are that the father of applicant No.1 was working as Khalasi under the Respondents, i.e. authorities of the Central Water Commission. He passed away on 29.09.1998 leaving behind his widow, two sons, one divorced and one married daughter. After the death of the employee, the family members were left without any source of income and, therefore, were living in financial distress. A prayer was, therefore, made to the Respondents to provide employment in favour of applicant No.1 on compassionate ground. It is the submission of the applicants that the Respondent-authorities have issued detailed guidelines regarding consideration of cases for compassionate appointment vide O.M. Dated 19.09.2005 in continuation of the O.M. dated 09.10.1998. the Executive Engineer of the Central Water Commission, Bhubaneswar, forwarded the

*Rei*

application along with documents to the Superintending Engineer, CWC, Bhubaneswar, vide letter dated 26.03.1999. The Superintending Engineer, CWC, on the other hand in his letter dated 26.10.2007 sought for further information and the required information was also provided. Applicant No.2, i.e. the widow of the deceased employee, made another representation dated 09.11.2006 to the Executive Engineer. In the meantime, Respondent No.1, i.e. Secretary to the Govt. of India, Ministry of Water Resources issued a circular dated 18.11.2010 directing consideration of compassionate appointment cases by convening screening committee every year. Thereafter, the Respondents intimated to the applicant No.1 in their letter dated 20.05.2011 filed at Annexure-A/8 that he did not qualify for compassionate appointment as per the guidelines issued by the Department of Personnel and Training for compassionate appointment cases, and therefore, his case now has been closed. This communication dated 20.05.2011 is the subject matter of challenge in this O.A.

3. The applicants have submitted that this communication dated 20.05.2011 does not given any reason as to why the case of compassionate appointment was rejected. Therefore, it is an unreasoned order. The applicants are living in great distress and indigent condition and, therefore, the applicants have alleged that the order of rejection has been issued without proper consideration of the facts of the case. They have also pleaded that even cases which are financially more sound have been approved for providing compassionate appointment. The applicant No.1 belongs to SC Community and vacancies were available under the quota and even then his case was rejected. The order dated 20.05.2011 has also been assailed on the ground of delay. By citing the case of Smt. Sushma Gosain and others Vs U.O.I. & others (1989 (4) SCC 468), the applicants have pleaded that in this



judgment the Hon'ble Apex Court has laid down that there should not be any delay in consideration of cases for appointment on compassionate ground since such appointment is to mitigate the hardship caused due to the death of bread-earner of the family. This view has also been reiterated by the Hon'ble Apex Court in the three Judges Bench in the case of Smt. Phoolwati Vrs. U.O.I. & Others (AIR 1991 SC 469).

4. The Respondents have filed a counter affidavit in the case. The main facts enumerated in the counter affidavit are that the case of applicant No.1 was considered by the Committee on compassionate appointments in its meeting held on the following dates:

- (i) 7<sup>th</sup> and 8<sup>th</sup> January, 2008
- (ii) 9<sup>th</sup> July, 2010
- (iii) 9<sup>th</sup> May, 2011

The minutes of such meetings have also been enclosed to the counter affidavit. The applicant No.1 did not figure in the list of most deserving candidates in each of the meetings of the Committee based on the vacancies available at that time and, therefore, the case of the candidate was closed and he was informed accordingly. It is further submitted that in order to objectively ascertain the degree of financial difficulties of the applicant a detailed procedure has been laid down as per the Ministry of Water Resources O.M. dated 19.09.2005. The comparative picture of the various applicants have been ascertained on the basis of marks assigned to each applicants as per the different attributes, i.e. number of dependents, property owned, family income and marital status of daughter. The Respondents have submitted in the counter affidavit that the case of the applicant was considered according to these parameters vis-à-vis case of other applicants. Although the Respondents have full sympathy towards the applicant but in



view of other candidates being available who were ascertained to be more deserving as per the objective marking system prescribed by the Ministry of Water Resources, their hands are tied. The Respondents have further averred that there is no extra special weightage to be given to SC, ST or OBC candidates for the purpose of compassionate appointment.

5. Having heard Ld. Counsels from both the sides, I have also perused the records. A perusal of the minutes of the meeting held on 7<sup>th</sup> and 8<sup>th</sup> of January, 2008 reveals that applicant No.1 has secured 44 marks on the basis of the scoring system of merit points decided by the Respondents. Further, as per the minutes of the meeting dated 09.07.2010, the applicant has scored 46 marks. Perusal of the minutes of meeting held on 09.05.2011 reveals that the applicant has scored 46 marks again. In the meeting dated 09.05.2011, the Respondents decided that since the case of the applicant was considered three times already and his case was not found to be most deserving, therefore, his case will be closed and the applicant will be accordingly informed. Examination of the records reveals that the applicant's case was considered three times and, thereafter, the matter was closed.

6. However, the case made out by the applicant's counsel in this O.A. is that the order of rejection was unreasoned and the applicant did not get any opportunity to know on what basis the marks were allocated by the Respondents. The applicant's counsel calls this order of rejection dated 20.05.2011 a cryptic and unreasoned order. The applicant's Counsel has conceded that in the first meeting of the Committee applicant was allotted only 44 points and in the two later meetings he was allotted 46 points but he has challenged the scores that were given for some of the attributes to be incorrect. His submission is that he should be awarded a total score of 60



points if the facts of the case were considered properly. He has given a detailed calculation, according to him, on attributes like family pension, terminal benefits, monthly income, moveable property, number of dependents and left over service. When the applicant's Counsel filed his calculation sheet on merit points giving a copy of the same to the Ld. Sr. Central Govt. Standing Counsel appearing for the Respondents, Ld. Sr. CGSC undertook to obtain instruction from the Department on the calculation sheet furnished by the Ld. Counsel for the applicant. He has also submitted a reply after taking instruction from the concerned Department. On each of the attributes that has been discussed by the applicant's counsel, the Ld. Sr. CGSC has given a reply and justified the marks that were allotted to the applicant's case in the meeting. He has denied that the applicant is eligible to get a score of 60 points as per his claim.

7. The first issue that strikes me in this particular matter is that as per the records which have been brought to the notice of the Tribunal the father of the applicant No.1 died on 29.09.1998 and the application for compassionate appointment was submitted in the year 1999. Compassionate appointment is intended to mitigate the immediate hardship caused to the family on account of the demise of the breadwinner, therefore, inordinate delay in considering such application defeats the very purpose of the scheme. Here is a case where the prayer of the applicant for compassionate appointment was considered finally in three meetings of the compassionate appointments committee held in the years 2008, 2010 and 2011 and the order of rejection was communicated in the year 2011. The authorities may take care in future to consider the cases for compassionate appointment well in time in order to fulfill the purpose of the scheme.



8. It is again a fact that order of rejection happens to be a very short reply conveying the decision that the matter has been closed and that the applicant No.1 did not qualify for appointment as per the guidelines. However, there is nothing on record to show that the applicant No.1 made any further representation to the authorities regarding the detailed reasons to be communicated and praying for reconsideration of his case. It is also a fact that the applicant's case was considered three times in the compassionate appointments committee. Subsequently, in this O.A., applicant's Counsel has given a detailed calculation of merit points, which he thinks should have been awarded to him. Ld. Sr. CGSC has also given a reply on this submission of the applicant. It is, however, not possible for this Tribunal to take a final view regarding the points which are claimed by the applicant's Counsel. The cases of compassionate appointment have to be considered by the concerned authorities only. The points submitted by the Ld. Counsel for the applicants need to be disposed of in the light of the guidelines and instructions and final decision has to be taken in the compassionate appointments committee. Before closing the case of the applicant, the Respondents may like to consider the authenticity and veracity of the contentions. This Tribunal does not have the means to verify the claim of the applicant as per the guidelines and also against the claims made by other applicants. As far as the record goes to show, since the applicant has not made further representation to the authorities in the matter of merit points, he is, therefore, directed to file all his documents and detailed submission to Respondent No.4, i.e. Superintending Engineer, Central Water Commission, Hydrological Observation Circle, Bhubaneswar, within a period of 15 days from the date of receipt of this order and the Respondent No.4 after receipt of such documents may reconsider the case in the compassionate





appointments committee strictly based upon the documents to be submitted by the applicant within a period of three months thereafter. Respondent No.4 is also directed to communicate his final decision to the applicant immediately thereafter with a detailed and speaking order.

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



(R.C.MISRA )  
MEMBER (Admn.)

RK