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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 824 OF 2011
Cuttack, this the 16th day of May, 2013

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

Subhashish Mishra, aged about 29 years, S/o. late Satyananda Mishra, At-Bodanga, PO-Kujanga, Dist-Jagatsinghpur

...Applicant

By the Advocate(s)-M/s.S.Ch.Puspalak

Ms.K.Mohanty

S.Samal

VERSUS

Union of India represented through

1. The Director General ,
Doordarshan,
Doordarshan Bhawan,
Copernicus Marg,
New Delhi
2. Deputy Director(Admn.),
Prasar Bharati,
Broadcasting Corporation of India,
Doordarshan Bhawan,
Copernicus Marg,
New Delhi
3. Station Engineer,
Prasar Bharati,
Broad Casting Corporation of India,
Doordarshan Maintenance Centre,
Aurobindo Nagar,
Jeypore, Orissa

... Respondents

By the Advocate(s)- Mr.S.K.Patra




ORDER

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

Heard Shri S.Ch.Puspalok, learned counsel for the applicant and Shri S.K.Patra, learned counsel appearing on behalf of the Respondents and perused the records.

2. The facts of the case are that applicant's father who was serving as U.D.C. (Storekeeper) in Prasar Bharati Broad Casting Corporation of India, expired on 4.3.2000 while still in service. At the time of the death of his father the applicant was only 20 years of age and was studying. He approached the authorities for a compassionate appointment, but his prayer was rejected on 7.11.2001 because of non-availability of vacancy under compassionate appointment quota in the Department. He again filed a representation dated 8.11.2010 for reconsideration of his case and since his prayer was not considered, he approached this Tribunal in O.A.No.203/11. This Tribunal, vide order dated 6.5.2011 directed the Respondents to consider his case within a period of two months. However, in pursuance of this direction, the Respondents considered his prayer, but rejected the same vide their order dated 20.7.2011, which is filed as Annexure-A/6 of the O.A. Therefore, he has now approached the Tribunal claiming a relief that his case should be reconsidered and a compassionate appointment should be granted in his favour.

3. The learned counsel for the applicant submitted that vide Annexure-A/4 dated 15.7.2011, the Assistant Engineer, Broad Casting Corporation of India intimated the applicant for providing the required documents for considering his claim for compassionate appointment and after the documents were submitted by the applicant, the same were forwarded to the Doordarshan Head Office, New Delhi from the Prasar Bharati Broad Casting Corporation office, Jeypore vide letter dated 10.8.2011, which is annexed to the O.A. as Annexure-A/7. It is the submission of the learned counsel for the applicant that the order of rejection dated 20.7.2011 was passed before the application and



4 documents were even forwarded to the Head Office of Prasar Bharati Broad Casting Corporation vide letter dated 10.8.2011. On this ground, he pleaded that the documents have not been given any consideration by the concerned authorities and therefore, his case has to be reconsidered and a compassionate appointment should be provided.

4. On the other hand, Shri S.K.Patra, learned counsel for the Respondents brought to my notice Paragraph-5 of the rejection order in which it is mentioned that the death of the Government servant has occurred in the year 2000 and a time span of 10 long years have elapsed since then. Since the family has been able to manage all these years, the indigent condition of the family is not proved and therefore, the case does not deserve any consideration for compassionate appointment.

5. I have considered the submissions made by the learned counsel for both the sides carefully and perused the documents in this case.

6. The law laid down by the Hon'ble Apex Court is very evident that the Tribunal cannot give any direction for giving an appointment on compassionate ground. The Hon'ble Supreme Court in **Civil Appeal No.6224/2008 decided on 22.5.2012 in Union of India & Another vs. Shasanka Goswami & another (2013)(2) SLR 429 SC** held as under.

“There can be no quarrel to the settled legal proposition that the claim for appointment on compassionate ground is based on the premises that the applicant was dependent on the deceased employee. Strictly such a claim cannot be upheld on the touchstone of Article 14 and 16 of the Constitution of India. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the state and dies while in service. Appointment on compassionate ground cannot be claimed as a matter of right. As a rule public service appointment should be made strictly on the basis of open invitation of

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applications and merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement, taking into consideration the fact of the death of the employee while in service leaving his family without any means of livelihood”.

7. In the present case, however, I am not satisfied that the prayer of the applicant has been given due consideration by the concerned authorities. It is quite evident from the records that before the documents reached them, the Respondents rejected the prayer of the applicant only on the ground that since the death occurred in 2000 there is no proof that the family as on date is in indigent condition to deserve a compassionate appointment.

8. Every prayer made under compassionate appointment needs to be considered after taking into account the financial condition of the family, availability of posts under compassionate appointment quota and other related factors before a decision is arrived at. In the spirit of the scheme for compassionate appointment, the case should be considered fairly and objectively as per the laid down procedure. Since this has not been satisfactorily done, I would direct the Respondents to consider the prayer of the applicant once again as per the rules and laid down criteria and come to a decision and communicate the same to the applicant with a reasoned and speaking order within a period of three months from the date of receipt of this order. In the circumstances, the impugned communication dated 20.07.2011(Annexure-A/6) is quashed.

With the above observation and direction, this O.A. is disposed of leaving the parties to bear their respective costs.


(R.C.MISRA)
MEMBER(A)