

O.A.No.281 of 2009

Indramani Behera Applicant
Versus
Union of India & Others Respondents

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Order dated: 23.03.2010.

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

The father of the applicant Late Karunakar Behera was serving as Tradesman D in the department of Atomic Energy and Atomic Minerals Division and while he was serving in the office of BSOI, AMD Visakhapatnam died prematurely on 28.11.1999. The applicant sought employment on compassionate ground. Respondents considered his case along with others and taking into consideration the indigence of the candidates prepared a priority list in which the name of the applicant was placed at Sl.No.19. As there was no vacancy under the compassionate quota the Respondents through letter under Annexure-A/4 regretted for providing employment on compassionate ground. Thereafter through representation, applicant sought the intervention of the Hon'ble Prime Minister of India in the matter. As it appears, on the basis of the said letter it was informed to the applicant in letter under Annexure-6 dated 27.04.2009 that case of the applicant was considered by the compassionate appointment committee (CAC) in AMD on 08.10.2001 and 7.7.2004 and his name was placed at an appropriate position but he could not be provided appointment due to non-availability of vacancy under the quota meant for appointment on compassionate ground. It was further intimated that as per the extant policy of the Government the name of the applicant was deleted by CAC during its meeting held on 24.3.2005. Thereafter, by filing the present Original Application, the applicant seeks to quash the order/letter under Annexure-A/4

8 & A/7 with direction to provide him appointment on compassionate ground.

2. The main contention of the Respondents in their counter filed in this case is that though the case of Applicant received due consideration twice, taking into consideration the indigence conditions of the candidates considered for providing appointment on compassionate ground, the name of the applicant was placed below in the priority list so as to be provided with the appointment within the available vacancy under compassionate quota. Third time when the meeting convened the case of the applicant being beyond three years was not considered by the CRC. Accordly it was contended by the Respondents that as there was no wrong in the decision making process of the matter and the entire process was conducted keeping in mind the yardstick of various instructions available on the subject, this Original Application is liable to be dismissed.

3. Learned Counsel appearing for both sides have reiterated the stand taken in their respective pleadings. Having heard them at length perused the records. Learned Counsel for the Applicant has submitted that when providing appointment on compassionate ground is a benevolent decision, provision for appointment only against earmarked quota is unethical. But I do not see any force in this submission; because this question is no more res integra to be canvassed by any of the parties before the Tribunal in view of the decisions on the subject by the Hon'ble Apex Court in the past; which according to me needs no repetition. Therefore, going by the materials placed by parties in support of their respective pleadings, I have no hesitation to hold that the procedure adopted by the Respondents in preparing the priority list and giving appointment only against the vacancies meant for appointment on compassionate ground is bad in any manner. However, at the same time in view of the consistent view taken by this Tribunal in earlier cases, I am of the

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opinion that as per the instructions of the DOP&T dated 05-05-2003 the case of the applicant ought not to have been discarded for the third time consideration in the CRC meeting held on 24.03.2005. Hence, the Respondents are directed to reconsider the case of the Applicant for the third time in the next CRC. Based on the recommendation of the CRC, Respondents shall take further course of action in the matter and communicate the result thereof to the Applicant.

4. In the result, this OA stands disposed of in the afore-stated terms. There shall be no order as to costs.


(C.R.MOHAPATRA)
MEMBER (ADMN.)