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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.308 OF 2009

Cuttack this the 6th Day of Aug' 2009

CORAM:

THE HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
AND
THE HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

...
Smt.Laxmilata Sahoo, aged about 41 years, wife of Debebndra Kumar Sahoo,
Ex-Poultry Attendant, Qr.No.Type-I/II, CPDO Campus, Nayapalli,
Bhubanesar-751012

... Applicant

By the Advocates: Ms.Chitra Padhi & M.Devi

-VERSUS-

1. Union of India represented through Secretary, Government of India, Ministry of Agriculture Poultry), Department of Animal Husbandry, Diary and Fisheries, Krishi Bhawan, new Delhi-110 001
2. The Director, Central Poultry Development Organization (ER), At/PO-Nayapalli, Bhubaneswa-r-12

... Respondents

By the Advocates: Mr.P.R.J.Dash, A.S.C.

ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

1. Applicant is the wife of one Debendra Kumar Sahoo, who, while working as Poultry Attendant under the Respondent-Department retired from service with effect from 6.11.2008 on being medically de-categorized. This is the 2nd round of litigation by the applicant before this Tribunal, being aggrieved by the order dated 3.7.2009 (Annexure-A/2), passed by the Respondent No.1 in pursuance of the order dated 28.5.2009 of this Tribunal in O.A.No.220/09, wherein her prayer for compassionate appointment has been rejected due to non-availability of any more existing/anticipated vacancies. In the circumstance, the applicant has sought for the following relief:



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- i) To quash the order of rejection dated 3.7.2009 vide Annexure-A/2.
 - ii) To direct the Respondents to reconsider the case of the applicant for compassionate appointment as per instructions contained in O.M. dated 5.5.03 of DOP & T.
 - iii) To direct the Respondents for compassionate appointment to the applicant in terms of Clause (e) and (f) of Para-7 of O.M. dated 9.10.98 of DOP & T.

2. It is the case of the applicant that earlier she had approached this Tribunal in O.A.No.220/09 and in consideration of the submissions, this Tribunal, as per order dated 28.5.2009 disposed of the said O.A. directing Respondent No.2 to process the case for compassionate appointment as per rules. In the above backdrop, the Respondent-Department have issued the impugned order under Annexure-A/2 on the ground as referred to above. The entire case of the applicant is based on Government of India, Department of Per. & Trg., O.M.No.14014/19/2002-Estt(D) dated 5.5.2003, the relevant portion of which, reads as under:

“...if Compassionate Appointment to genuine and deserving cases, as per the guidelines contained in the above Oms is not possible in the first year, due to non-availability of regular vacancy, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for Compassionate Appointment by the Committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving the name of such a person can be continued for consideration for one more year.

The Maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. After three years, if Compassionate Appointment is not possible to be offered to the Applicant, his case will be finally closed, and will not be considered again”.



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3. Heard Ms.Chitra Padhi, learned counsel for the applicant and Shri P.R.J.Dash, learned Addl.Standing Counsel appearing on behalf of the Respondents on the question of admission.

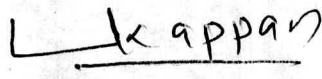
4. We find from Annexure-A/2 dated 3.7.2009 issued by the Respondent-Department, in compliance of the order of this Tribunal in the earlier round of litigation that the name of the applicant, Smt.Laxmilata Sahoo, W/o. Shri D.K.Sahoo, ex-Poultry Attendant, CPDO, Bhubaneswar had been considered by a duly constituted Committee, her name being placed at Sl. No. (iv). It reveals that the husband of the applicant retired from service voluntarily with effect from 6.11.2008. If that be so, the scheme for compassionate appointment is not at all applicable to the applicant. Be that as it may, in so far as consideration of the applicant's case for compassionate appointment, we are of the view that the instructions as set out in Office Memorandum dated 5.5.2003 issued by the DOP &T have not been followed by the Respondents in letter and spirit as no remark has been passed with regard to financial condition of the applicant and/or as to whether her case deserves to be taken up for consideration in the next recruitment year and her request has been turned down solely on the ground of non-availability of any more existing/anticipated vacancies. This being the situation, we have no hesitation to remit back the matter to the Respondent-Department for reconsideration within the four corners of the instructions contained in DOP&T's Office Memorandum (supra) and in the circumstances, we quash the impugned Annexure-A/2 dated 3.7.2009. Ordered accordingly. It is, however, made clear that the compliance of the above direction shall be subject to the



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condition that the applicant's husband has retired from service on being medically invalidated.

5. With the above observation and direction, this O.A. is disposed of at the stage of admission. No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER