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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.354 of 2009

Khadija Bibi Applicant
Versus
Union of India & Others Respondents
.....

Order dated: 30th April, 2010

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THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (ADMN.)
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Heard Learned Counsel for both sides and perused the materials placed on record.

2. As it appears from OA and counter filed by the Respondents along with materials placed in support of the pleadings made therein, one Ali Hussain while working as Tradesman/E at HWP (Talcher) under the Respondents expired on 24-01-2002 leaving behind his family consisting of wife (Smt.Khadija Bibi), four sons (27 years, 25 years, 21 years and 15 years respectively) and daughter aged 21 years. After his death the widow sought appointment on compassionate ground in favour of her elder son Shri Abas Ali. The grievance of Khadija Bibi was considered by the Committee constituted by the Chief Executive, Heavy Water Board, in its meeting held on 27/9/2002 keeping in mind the yardstick of various guidelines issued by the Government on the subject. But the Committee did not find the instant case to be a deserving one taking into consideration the receipt of death benefit of Rs.3,99711/- and family pension of Rs.5011/- per month by the widow. The said decision of the Committee was intimated to the Applicant vide letter No.HWB/R/5(6)/4-Tal/2002/848 dated 31.10.2002. Being dissatisfied with the said decision of the Committee, through representation dated 4/1/2003 applicant sought reconsideration of her grievance. Accordingly, the grievance of applicant was reviewed by the Committee in its meeting held on 25/4/2003

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but did not find any ground to accept the request of applicant. The said decision was again intimated to the Applicant vide letter No.HWB/R/5 (6)/4-Tal/2003/465 dated 4.6.2003. Again through representation dated 04/03/2004 applicant sought review of its decision rejecting the grievance of applicant. On receipt of the said representation, the matter was placed before the Committee. But the Committee did not find any justifiable ground to review its earlier decision, hence rejected the grievance of the applicant and accordingly intimated to the applicant through letter No.HWB/R/5 (6)/4-Tal/2004/502 dated 6/7/2004. Again the matter was reviewed, on the representation of the widow dated 2/8/2004, by the Committee in its meeting held on 06/10/2004 but the committee found no additional grounds to review its earlier decision especially for the reason that the Heavy Water Production activity at HWP (Talcher) was suspended and no additional manpower was considered necessary at the plant. The decision of the committee was intimated to the applicant vide letter No.HWB/R/10 (5)/4-TAL/2004/972 dated 25.11.2004. Being aggrieved by the said decision of the authorities, Applicant approached this Tribunal in OA No.18/2006 and the order of rejection having been found a cryptic one, this Tribunal vide order dated 17.01.2006, after quashing the order of rejection, remanded back the matter to the Respondents for reconsideration and intimation of the result to the Applicant with a reasoned order. Thereafter, as it appears, Respondents reconsidered the case of the Applicant but did not find any valid reason to extend the benefit of appointment on compassionate ground to the elder son of the Applicant and communicated the said decision to the Applicant in letter under Annexure-11 dated 15th May, 2009. This order of rejection under Annexure-11 is under challenge in the present Original Application under section 19 of the A.T.Act, 1985 seeking to quash the aforesaid order under Annexure-11 and to direct the


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Respondents to accept the request of the applicant by providing appointment on compassionate ground in favour of one of her sons.

3. Law is well settled in a plethora of judicial pronouncements that although appointment on compassionate ground is a benevolent legislation the Administrative Tribunal cannot confer benediction impelled by sympathetic considerations in disregard to Rules/various instructions issued on the subject. The appointment on compassionate ground is not another source of recruitment but merely an exception taking into consideration the fact of the death of employee while in service leaving his family without any means of livelihood. Employment to the dependant of a government servant dying in harness in preference to anybody else is to mitigate hardship caused to the family of the deceased on account of his unexpected death while in service. Similarly it is trite law that that the Tribunal being not the appellate authority cannot sits over the decision reached by competent authority. In other words the Courts/Tribunal cannot interfere in the decision taken in exercise of the powers conferred upon the competent authority. The scope of judicial review in administrative orders is limited to the extent of decision making process of the matter. From the records and the arguments advanced, I do not find any such irregularity let alone illegality has taken place in the matter of rejecting the case of the applicant for providing appointment on compassionate ground. The case of the Applicant has been considered repeatedly at the behest of the Applicant. The decision of the authority, as is seen, is based on taking into consideration several factors viz; size of the family, financial benefits received and also the status of the family as provided in various instructions issued on the subject. Since in the instant case, it was found by the Respondents that the case of the applicant is not deserving compared to that of the others cases, especially when there is no need of additional man power, this Tribunal has

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hardly any scope to direct the Respondents to provide employment on compassionate ground more so when as I see all the sons of the Applicant are major and capable enough to earn their livelihood independently. In my opinion directing to provide appointment to the applicant on compassionate ground would tantamount to curtailing the chance of such appointment of another person who really deserves but for the appointment of the applicant. In view of the above, I find no justification to interfere in the order of rejection. Hence, the OA stands dismissed being devoid of any merit. But there shall be no order as to costs.


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