

OA No.412 of 2009  
B.Jagannath .... Applicants  
Versus  
Union of India & Others .... Respondents

Order dated: 16<sup>th</sup> February, 2010

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

.....

Admitted fact of the matter is that the father of the applicant Late B.Balaram died prematurely on 27.06.2001 while working as Safaiwala under the Respondent No.2 leaving behind his widow, two sons and one daughter. The present Applicant is one of the two sons of Late B.Balaram. He sought appointment on compassionate ground. The said prayer of the applicant was considered and rejected by the Respondents and communicated the reason of rejection in letter under Annexure-A/4 dated 6<sup>th</sup> May, 2005. Hence by filing the present Original Application, sought to quash the said order of rejection under Annexure-A/4 dated 6<sup>th</sup> May, 2005 for the same being illegal and violative of compassionate appointment scheme dated 09.10.1998 and OM dated 5.5.2003 (Annxure-A/8).Further he sought direction to the Respondents to consider the case of the applicant for providing appointment on compassionate ground three times as per the DOP&T instruction dated 5.5.2003. By filing MA No.468 of 2009 he prayed for condoning the delay in preferring this Original Application belatedly.

2. By filing counter Respondents have stated that the letter under Annexure-A/4 dated 6<sup>th</sup> May, 2005 was not a rejection/denied letter to the Applicant. It was only intimation to the applicant regarding the result of the compassionate appointment committee expressing inability to accommodate him taking into consideration the indigent condition of the applicant vis-à-vis others who were considered by the Committee within the earmarked

compassionate appointment 5% quota of vacancies. Further case of the Respondents is that the father of the Applicant expired on 27.06.2001. As per DOP&T OM dated 5.5.2003 the case for considering compassionate appointment in respect of the applicant does not arise as the case is more than three years from the date of death.

3. Heard Learned Counsel for both sides and perused the materials placed on record including the order dated 19<sup>th</sup> August, 2009 in OA No. 352 of 2009 and order dated 20<sup>th</sup> August, 2009 in OA N. 351 of 2008 of this Tribunal filed by the Learned Counsel appearing for the Applicant in course of hearing to support his case. It appears from the order under Annexure-A/4 that the Compassionate Appointment Committee had considered cases of 39 candidates. There were only two posts available under the ceiling of 5% quota meant for compassionate appointment. Though the committee found the case of the applicant deserving, but taking into consideration the indigence of two more deserving cases, the Committee recommended providing appointment in their favour. In view of the above, I find no illegality or irregularity on the recommendation made by the Compassionate Appointment Committee warranting this Tribunal to interfere in so far as such a recommendation is concerned.

4. At the same time, this Tribunal cannot close its eyes to the contradictory stand taken by the Respondents in their counter. On the one hand it has been stated by the Respondents in their counter that the letter under Annexure-A/4 is not a letter of rejection of the prayer for providing appointment on compassionate ground and on the other hand it has been stated that as per DOP&T OM dated 5.5.2003 the case of the applicant does not require consideration being more than three years. From the above, it appears that the Respondents are very much conscious about the dictum laid down in

Annexure-A/8 that the case of a candidate seeking appointment on compassionate should receive consideration thrice. This was also the view expressed by this Tribunal in OA No. 352 of 2009 (Satyabadi Naik v Union of India & Others) and OA No. 351 of 2008 (Manoj Kumar Mohanty) and I find no reason to deviate from the view already taken and in view of the specific stand of the Respondents that that the letter under Annexure-A/4 is not a letter of rejection but only an intimation.

5. For the discussions made above, while declining to interfere in the letter under Annexure-A/4, the Respondents are hereby directed to consider the case of the Applicant two times more in the Compassionate Appointment Committee. In the result, this OA as well as MA seeking condonation of delay stand disposed of with the observation and direction made above. No costs.

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