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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.572 OF 2009

Cuttack this the 15th day of May, 2012

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

Mrutunjaya Jena, aged about 33 years, S/o. late Shyamsundar Jena, At-Suan Sahi, PO-Bhattaka, PS-Dharmasala, District-Jajpur

...Applicant

By the Advocates:Mr.J.Sengupta

-VERSUS-

1. Union of India represented through its Director General of Posts, Dak Bhawan, New Delhi-110 001
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, District-Khurda
3. Senior Superintendent of Post Offices, North Division, At/PO-Cantonment Road, District-Cuttack

...Respondents

By the Advocates:Mr.S.B.Jena, ASC

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ORDER

C.R.MOHAPATRA, ADMINISTRATIVE MEMBER:

1. In this Original Application under Section 19 of the A.T.Act, 1985, the applicant has sought the following relief.

“...to quash the order dated 03.11.2009 passed by Respondent No.2 under Annexure-a/7 and to direct the Respondents to reconsider the case of the applicant for appointment on compassionate ground”.

2. Briefly stated, the facts of the case are that applicant's father while working as Sub Post Master under the Respondent-Department passed away on 01.11.2006. In the above background, applicant represented to the Respondent-Department seeking appointment on compassionate ground. Since no action was taken by the Respondents, the applicant had moved this Tribunal in O.A.No. 495 of 2008. This Tribunal, vide order dated 10.7.2009 disposed of the said O.A. in the following terms:

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"Be that as it may, since the case of the applicant for compassionate appointment is in pipeline as averred by the Respondents, in the fitness of things, it would be proper to direct the Respondents to take a decision in the matter of compassionate appointment within a period of 45(forty-five) days from the date of receipt of this order and communicate the same to the applicant within that period".

3. Based on the above direction of the Tribunal, Respondent –Department, vide Annexure-A/7 dated 3.11.2009 turned down the prayer of the applicant solely on the grounds as under:

"The main criteria for recommendation by the CRC was the liability of the applicant & the indigent circumstances of the family. On this ground it was seen by the CRC that the applicant's liability and condition was not as indigent in comparison to other cases being considered by the CRC and hence not recommended".

4. Aggrieved with the above decision, the applicant has moved this Tribunal in the present O.A. seeking the relief as referred to above.

5. Opposing the prayer of the applicant, Respondent-Department have filed a detailed counter. The main thrust of the counter is the same as quoted above. Besides the above, it has been submitted by the Respondents that having regard to financial condition of the family, its assets and liabilities, number of unmarried daughters, number of minor children, availability of any earning member in the family and number of vacancies available under compassionate quota, the CRC selected the most deserving cases limited to the number of vacancies available in the cadre of PA/SA and Postman. In the circumstances, it has been prayed that the O.A. being devoid of merit is liable to be dismissed.

6. Heard Shri J.Sengupta, learned counsel for the applicant and Shri S.B.Jena, learned Addl.Standing Counsel and perused the materials on record.

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7. It is the case of the applicant that the impugned order does not disclose as to whether the applicant was less meritorious compared to other candidates who have been considered and appointed on compassionate grounds and therefore, the consideration is an outcome of total non application of mind.

8. On the other hand, Shri Jena submitted that in the matter of compassionate appointment no right accrues on the applicant. According to Shri Jena since the applicant was considered by the CRC which is an expert Body to consider the cases of compassionate appointment and in its opinion the applicant being not so indigent compared to other candidates, it cannot be said that the action of the Respondents is illegal.

9. I have considered the submissions made by the learned counsel for the rival parties.

10. It is to be noted that while this matter was taken up for admission on 30.11.2009, this Tribunal had observed that order dated 3.11.2009 did not show that out of 13 posts available under compassionate appointment, the case of the applicant was less meritorious than others. In the circumstances, this Tribunal, while admitting the O.A. and directing notice to the Respondents, as an interim measure, directed the Respondents to keep one post out of 13 posts earmarked for compassionate appointment, vacant until further orders.

10. From the counter filed by the Respondent-Department it reveals that though the CRC considered the matter, yet, it did not recommend the name of the applicant only on the subjective assessment that **the applicant's liability and condition was not as indigent in comparison to other cases being considered by the CRC and hence not**

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recommended. In this connection, on a reference being made to Annexure-R/2 dated 25.11.2009 wherein about 46 candidates were considered for compassionate appointments, it does not throw any light as to what were the yard-sticks or governing factors or the degree of consideration for compassionate appointment which the applicant could not attain/adjudged not so indigent compared to others. In addition to the above, it is to be noted that the Respondents have submitted that the CRC selected the most deserving cases limited to the number of vacancies available in the cadre of PA/SA. It is an admitted position that in the above said cadre there existed 13 vacancies, of which, one vacancy was directed by this Tribunal vide order dated 30.11.2009 to be kept reserved until disposal of this O.A. In the circumstances, it goes without saying that one post in cadre of PA or SA, as the case may be is lying vacant as of date.

11. For the reasons discussed above, I have no other option than to hold that the impugned Annexure-A/7 dated 3.11.2009 is not in consistent with four corners of rules governing compassionate appointment and therefore, the same is liable to be quashed/set aside. Ordered accordingly.

12. In the circumstances, Respondents are directed to reconsider the case of the applicant against one of the existing vacancies in the cadre of PA/SA in the light of what has been observed above, provided that the applicant is found eligible and fulfills all other conditions for the post in question and issue appropriate orders within a period of sixty days from the date of receipt of this order.

In the result, the O.A. is disposed of as above. No costs.


C.R. MOHAPATRA
ADMINISTRATIVE MEMBER