

OA No.635 of 2009

Solami Soreng	....	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)

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Admittedly, the husband of the Applicant Late Jerom Soreng, working as a Driver under AGE (I) (FY) Bolangir, Military Engineer Services, Badmal, Dist. Bolangir died prematurely on 15.04.2000 in a road accident (falling down on a running training). The deceased left behind his widow (present Applicant), two minor children, one unmarried sister and old mother. As the deceased was the only earning member of his family, after his death, the applicant, by making representation requested for providing an employment to her on compassionate ground. As it appears, the case of the applicant was rejected by the Respondents. She challenged the said order of rejection in OA No. 420 of 2008. In order dated 0508.2009, this Tribunal disposed of the matter with the following observation and direction:

"10. We are of the view the rejection of the application by Annexure-A/7, though it is endorsed as a speaking order, no reason appears in tat paper and on that grounds alone, the OA has to be allowed.

11. Secondly, we see that the application of the applicant has been scrutinized by the Respondents in comparing with some other candidates but we are not given any idea regarding the number of vacancies which has arisen within three years. No only that how many candidates have been appointed is also not clear from Annexure-A/7. Apart from that as per the direction issued by the Government of India by issuing Office Memorandum No. 140143/2003 dated 5.5.2003, it requires that an application for compassionate appointment shall be considered for three years for giving chance for getting appointment. In this context, we have already taken the view that three years means three years of consecutive direct recruitment and not the three years from the date of receiving of the application. In this context, we have got doubts that suppose within three years there is no recruitment alone then the attempt will become futile. We are taking the view that the intention of the Government of India while issuing




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memorandum is to consider such application for three years consecutive direct recruitment years. If so, we have no hesitation to quash Annexure-A/7 and direct the Respondents 1 and 2 to reconsider the case of the applicant and give an answer to the application within a reasonable time at any rate within three months from the date of receipt of a copy of this order. Order accordingly.”

2. As it further appears, pursuant to the aforesaid order of this Tribunal, Respondents communicated the order showing the reason in letter dated 31<sup>st</sup> October, 2009 marked as Annexure-A/12 series to this OA. The said order is impugned in this second round of litigation filed by the applicant with prayer to quash the same and direct the Respondents to consider and provide her an employment on compassionate ground. This matter was listed on 10.02.2010 for considering on the question of admission when Learned Senior Standing Counsel Mr. Mohapatra appearing on notice for the Respondents was directed to take instruction and the matter was posted today. Nothing has been filed in writing by the Respondents meanwhile. However, it was argued by Learned Senior Standing Counsel that the case of the applicant received consideration of the Compassionate Appointment Committee. The said committee allotted marks in different heads such as income, size of the dependent family and their age etc. Taking into consideration the vacancies available in the compassionate appointment quota as the case of the applicant did not come within the said vacancies, she could not be recommended for appointment. Therefore, there being no wrong in the decision making process of the matter, the order of rejection under Annexure-A/4 needs no interference. On a harmonious reading of the previous order of this Tribunal and impugned order under Annexure-A/4, I do not find that there has been substantial compliance of the earlier order of this Tribunal directing three times consideration as per the DOP&T instruction dated 5.5.2003 so far as the Applicant is concerned for providing employment on compassionate ground.

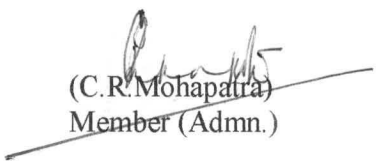


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As in the earlier case in the order of rejection the Respondents have also not furnished detailed analysis of the case of the Applicant and four others who have been recommended for appointment on compassionate ground. Transparency is the sine qua non in public administration. As such, while rejecting the claim in one slot of consideration on the ground that with the score/mark case of applicant did not come within the purview of the vacancies earmarked for compassionate appointment, the Respondents ought to have furnished the applicant details of the marks given in different heads to her and to others. However, it appears from the impugned order that the case of applicant has not received consideration thrice as per the DOP&T instruction dated 5.5.2003 in the light of the observation and direction made in OA No. 420/2008. Hence, the impugned order under Annexure-A/4 series are hereby quashed with direction to the Respondents to reconsider the case of the Applicant in the light of the observations and directions made in OA No. 420 of 2003 and communicate the result thereof to her. In the result, this OA stands allowed in terms of the observations and directions made above.

3. Copies of this order along with copy of the OA be sent to the Respondents for compliance.

  
(C.R. Mohapatra)  
Member (Admn.)