

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/0060 of 2015
Cuttack this the 28th day of July 2017

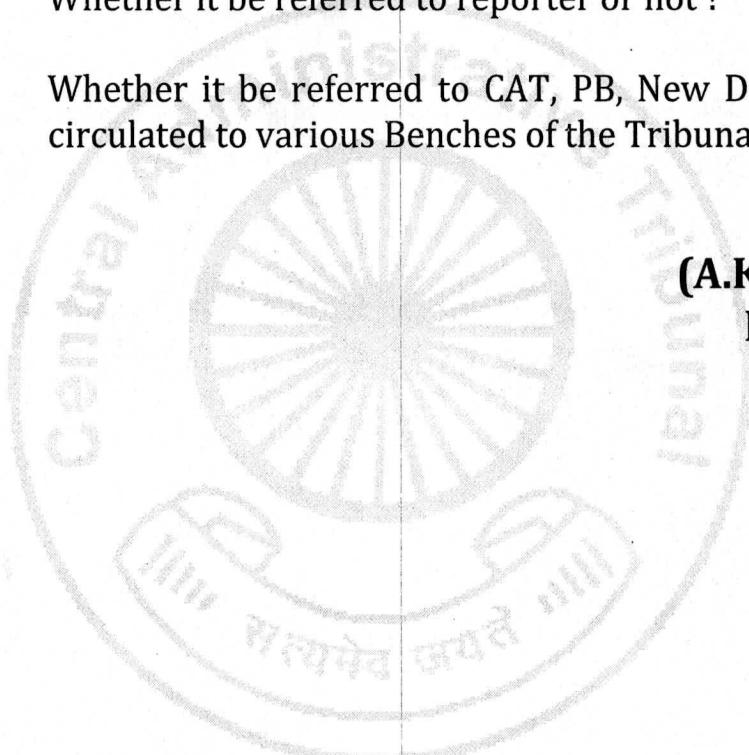
D.Easwar Kumar...Applicant

-VERSUS-

Union of India & Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporter or not ?
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ?


(A.K.PATNAIK)
MEMBER(J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A.No.260/0060 of 2015
Cuttack this the 28th day of July, 2017

CORAM:
HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

D.Easwar Kumar, aged about 25 years, S/o. late D.Suryanarayan Rao, At-Loco Colony (Near backside Rly.Hospital), PO-Jatni, PS-Jatni, Dist-Khurda

...Applicant

By the Advocate(s)-M/s.B.B.Pattnaik
S.Routray
-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Defence, At-South Block, New Delhi-110 001
2. The Engineer-in-Chief's Branch, Ministry of Defence (Army)1HQ, Kashmir House, New Delhi-110 001
3. The Chief Engineer Headquarters, Southern Command, Pune-411 001
4. The Chief Engineer(Navy),Military Engineering Services, Railway Station Road, Visakhapatnam-530 004
5. Deputy Director (Pers), Office of the Chief Engineer, Southern Command, Pune-411 001
6. The Garrison Engineer, INS Chilka, PO-NTC Chilka, Dist-Khurda

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty

ORDER

A.K.PATNAIK, MEMBER(J):

Applicant's father while working as Peon under the Respondents-Department, passed away on 10.10.2009. After the death of his father, applicant submitted an application

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seeking compassionate appointment. Thereafter, the Respondents brought out a list, called "Compassionate Appointment Combined Merit List of all Categories" for the quarter 01.10.2010 to 31.12.2010 vide A/1, in which the name of the applicant finds place at Sl.No.114. While the matter stood thus, applicant was communicated with a letter dated 25.01.2014 (A/5) rejecting his prayer for compassionate appointment. Hence, by filing the instant O.A., applicant has sought for the following relief.

- i) To quash the order dated 25.1.2014 under Annexure-A/5 as illegal and not sustainable in the eye of law.
- ii) To direct the respondents to reconsider the case of the applicant for compassionate appointment under the R.A.Scheme.
- iii) To pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice.

2. Grievance of the applicant is that his request for compassionate appointment has been rejected by the Respondents on a flimsy ground by indicating that compassionate appointment is not a matter of right. According to him, his name having been placed at Sl.No.74 of which 57 candidates have already been provided with compassionate appointments by giving 4th to 8th look to their cases, his case has been unilaterally rejected only after giving a 3rd look and as such a sheer discrimination has been meted out to him.

VdL



3. Per contra, respondents, by filing their reply-statement have submitted that the cut off marks secured by the applicant being 64, his name was put at Sl.No.74. The Screening Committee after taking into consideration all aspects of the matter in respect of the candidates before it for compassionate appointment, including the applicant, came to a conclusion that there being more deserving candidates against few available vacancies, applicant's case could not be approved by the competent authority, applicant's position being lower in the merit list than the other candidates.

4. Heard the learned counsels for both the sides and perused the records. I have also gone through the rejoinder filed by the applicant as well as the written notes of submission filed by the parties concerned.

5. From the pleadings of the parties, the only point to be determined is whether the applicant's case has received fair consideration by the respondents in so far as compassionate appointment is concerned.

6. In this connection, applicant has pointed out that the candidates even after being given 4th to 8th look have been appointed on compassionate grounds. In the reply statement, respondents have not effectively countered this part of argument advanced by the learned counsel for the applicant. In this connection, I have gone through A/1 dated 31.10.2010. It reveals therefrom that the cases of various candidates have



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been recommended even for 4th look, 5th look, 7th look and 9th look. It is an admitted position that in the instant case applicant's request for compassionate appointment has been rejected on 3rd look only. Since in the matter of compassionate appointments, a number of candidates, as would be evident from A/1 dated 31.10.2010, have availed of their names being given recommended for consideration for 4th, 5th, 7th and 9th look, rejection of request of the applicant on 3rd look appears to be wholly unreasonable, arbitrary and thereby applicant has apparently been discriminated against. Therefore, it cannot be held that a fair treatment has been meted out to the applicant in the matter of recommendation of his case for compassionate appointment.

7. For the reasons discussed above, respondents are directed to give further look to the case of the applicant in the same line as has been given to other candidates vide A/1 dated 31.10.2010 and take appropriate action.

8. With the observation and direction as made above, the O.A. is disposed of. No costs.


(A.K.PATNAIK)
MEMBER(J)

BKS