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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O.A.No.260/00120 of 2016**

Date of Order : this the 21<sup>ST</sup> day of June, 2017

**CORAM**

**HON'BLE SHRI R.C.MISRA, MEMBER(A)**

Jyoti Ranjan Barik aged about 24 years S/o Shri Lingaraj Barik at Plot No. 321 Patrapara, PO Aiginia, Bhubaneswar-19, District Khurda. **...Applicant**

By the Advocate-Mr.B.B.Patnaik

**-V E R S U S-**

- 1- Union of India represented through its Director General of Health Services, Nirman Bhavan, New Delhi - 40108.
- 2- Additional Director, Central Government Health Scheme Unit No. IV, Bhubaneswar, District Khurda. **...Respondents**

By the Advocate-None

**ORDER**

**R.C.MISRA, MEMBER(A):**

The applicant in this O.A. has approached the Tribunal making a prayer that respondents may be directed to consider his case for appointment against any Group 'D' post under the compassionate appointment scheme by quashing the orders of the respondents dated 4<sup>th</sup> February, 2016 passed by the respondents rejecting the case of the applicant.

2. The brief facts of the case are that the applicant's father who was working as a Peon under the respondent No. 2 i.e. the Joint Director, Central Government Health Scheme (CGHC), Bhubaneswar, took voluntary retirement w.e.f. 1<sup>st</sup> July, 2009 on health ground. After the voluntary retirement of the applicant's father, the applicant's elder brother made a representation to the respondent authorities for compassionate appointment. Since the representation was not considered, he filed OA No. 320/2013 in the Tribunal and the Tribunal vide order dated 4<sup>th</sup> July, 2013 directed the respondent No. 2 to consider the representation and pass a speaking order to be communicated to the applicant. The respondent No.2 however did not take any action on the direction passed by the Tribunal as aforesaid. In the meantime the elder brother of the applicant did not want to be considered under the compassionate appointment scheme since he was doing well in the field of Sports. He also gave an undertaking that he has no objection if his younger brother i.e. the applicant himself, is considered under the compassionate appointment scheme. Thereafter, the applicant represented before the authorities on 15<sup>th</sup> September, 2015 for compassionate appointment

submitting along with the same, the undertaking given by his elder brother. When the same was pending, applicant filed O.A. No. 851/2015 before the Tribunal. After hearing the matter, by order dated 2.12.2015, this Tribunal directed the respondents to consider the representation of the applicant and issue a speaking order. In pursuance of this direction of the Tribunal, respondents by their letter dated 4.2.2016 communicated a speaking order to the applicant. Since in the said order, the applicant's representation was rejected and he being aggrieved with the same, approached this Tribunal by filing the present O.A.

3. In the counter affidavit filed by the respondents, it has been submitted that the applicant's father was no doubt allowed to retire voluntarily but it was not on medical grounds since no medical certificate was attached to the voluntary retirement application. O.A. No. 320/2013 was filed by the applicant's elder brother and in compliance of the Tribunal's order, the respondents issued a speaking order dated 28.10.2013 (Annex.R/1) rejecting the case of applicant's elder brother. Therefore, it is submitted that applicant has made a wrong submission before the Tribunal that no action was taken by the respondents to comply with the direction of this Tribunal in OA No. 320/2013. It is further submitted by the respondents that since the applicant's father was not retired on medical ground under Rule 2 of the CCS (Medical Examination) Rules, 1957 or under the corresponding provisions of Central Civil Services Regulations, the applicant is not eligible for compassionate appointment. The order of rejection has therefore been passed since the applicant lacks in basic eligibility for being considered under compassionate ground.

4. The applicant has filed a rejoinder in which he has alleged that the respondents are misleading this Tribunal. His contention is, how the competent authority accepted the voluntary retirement without medical certificate in violation of Rule 2 of the CCS (Medical Examination) Rules, 1957. Applicant has taken voluntary retirement after completing twenty years of regular service on medical ground. The respondents have never insisted that a certificate from the medical board has to be obtained for such voluntary retirement. Therefore, the submission of the applicant is that his case is eligible for consideration. The learned counsel for applicant has also submitted a copy of the Compassionate Appointments Scheme in which it has been mentioned that the Scheme is applicable to a dependant family member of a Government servant who is



retiring on medical grounds under Rule (2) of the CCS (Medical Examination) Rules, 1957 or Rule 38 of the CCS (Pension) Rules, 1972.

5. The question for determination is whether the applicant would be considered eligible for compassionate appointment on the ground that his father was voluntarily retired. In the present case, the respondents have submitted that the voluntary retirement of the applicant's father was not on medical grounds. On examination of the documents, I find that on 15.6.2009 (Annex.A/1), the Joint Director, CGHS, Bhubaneswar, has passed an order that the representation of of Shri Lingraj Barik, Gr. D(Peon), who is applicant's father, was considered sympathetically for retiring him voluntarily. Further, it is mentioned in the order that his case for voluntary retirement will take effect from 1<sup>st</sup> July, 2009. In this order, there is no mention that the voluntary retirement was on the basis of medical invalidation. In the absence of any document showing that his father was retired on medical invalidation ground, it is not possible for the Tribunal to accept his contention. Since the applicant's father was simply retired voluntarily on sympathetic grounds, the applicant, i.e. being his son, cannot be considered eligible under the compassionate appointment scheme.

6. I have considered the submissions of the learned counsel carefully and also gone through the documents. I do not find any merit in this application and thus it stands dismissed with no costs to the parties.

  
(R.C.Misra)  
Member (A)