

3

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.916 of 2012
Cuttack this the 18th day of December, 2012

CORAM
HON'BLE SHRI ASHOK KUMAR PATNAIK, MEMBER(J)

Prasanta Kumar Lenka,
Aged about 36 years
Son of late Dharmananda Lenka
At/PO-Titira
Via-Borikina
Dist-Jagatsinghpur

Applicant ...Applic
ant *Vide*

(By the Advocate :Dr.B.R.Sarangi)

-VERSUS-

Union of India represented through

1. The Director General,
Dak Bhawan
Sansad Marg
New Delhi- 110 011
2. Chief Post Master General
Orissa Circle,
Bhubaneswar-751 001
Dist-Khurda
3. Superintendent of Post offices
Cuttack South Division
Cuttack-753 001
4. Assistant Superintendent of Post Offices
Jagatsinghpur
At/PO/Dist-Jagatsinghpur

...Respondents

(By the Advocate : Mr.U.B.Mohapatra)

Vide

4
O R D E R (oral)

A.K.PATNAIK, MEMBER (J):

Facts of the matter is that after the premature death of the father of the Applicant, while working as ED Packer in Borikina SO, Applicant prayed for appointment on compassionate ground. The said prayer of the applicant was rejected and communicated to him in letter dated 29th December, 2011 (Annexure-A/14) which reads as under:

“Pursuant to CO letter No. RE/CRC/2011 (GDS) dated 15.12.2011, it is to intimate you that Circle Relaxation Committee (CRC) considered your compassionate case and rejected it as your case does not come under “heard serving cases”.

2. The above decision as communicated in letter under Annexure-A/14 was challenged by the Applicant in OA No. 291 of 2012 which was disposed of by this Tribunal on 12.04.2012.

Relevant portion of the order is quoted herein below:

“3. Ld. Counsel for the applicant Mr. Sarangi submitted that the order of rejection i.e. Annexure-A/14 is not a reasoned one and also as per DOP&T circular dated 05.05.2003, the case for compassionate appointment can be considered for three times whereas the applicant’s case has been considered only once.

4. Having heard Ld. Counsel for the parties, we direct Respondents to consider the case of the applicant taking into account the provisions made in the DOP&T circular dated 05.05.2003. It has been the consistent stand of this Bench that three times consideration would mean consideration against three consecutive recruitment years. The same needs to be followed and matter be placed before the next CRC for consideration thereafter reasoned orders be issued by the Respondents under intimation to the applicant.

(Signature)

5

5. With the above observation and direction, the OA stands disposed of at the stage of admission stage."

3. Thereafter, in letter dated 16.10.2012 (Annexure-A/20), the Superintendent of Post Offices, Cuttack South Division, Cuttack/Respondent No.3 intimated the Applicant as under:

"Pursuant to CO letter No. RE/CRC/2012 (I) (GDS) dated 05.10.2012 it is to intimate that your compassionate case has been considered in the CRC and rejected."

4. Hence this OA with prayer to quash the order dated 29.12.2011 (Annexure-A/14), the letter dated 16.10.2012 (Annexure-A/20) and to issue direction to the Respondents to provide him appointment befitting to his qualification either in Gr. 'C' or Gr. 'D' post, on compassionate ground, within a stipulated period to be fixed by this Tribunal.

5. Heard Dr.B.R.Sarangi, Learned Counsel appearing for the Applicant and Mr. U.B.Mohapatra, Learned Senior Standing Counsel for the Union of India appearing for the Respondents and perused the records.

6. Dr.B.R.Sarasngi, Learned Counsel for the Applicant contended that second time also the Respondents have rejected the case of the applicant without giving any reason not to speak of the comparative assessment between the persons considered along with the applicant. It was further contended by him that though

Ae

appointment on compassionate ground is not a vested right but the authorities cannot reject the case on whims and fancy without assessing the indigence condition of the family. His contention is that the father of the applicant was the only earning member of the family and after his death the family is continuing in penury. Even then the Respondents rejected the case of the applicant without furnishing any reason in support of such rejection. This was objected to by Mr. Mohapatra, Learned Senior Standing Counsel appearing for the Respondents on various grounds but none of the grounds argued by him finds any support to uphold the order of rejection; especially when the order of rejection at Annexure-A/20 is bereft of any reason.

I find that in earlier occasion, the Tribunal quashed the order of rejection (Annexure-A/14) as the letter does not contain any reason. This time I also find that the Respondents have committed the same mistake in not speculating the reason in support of the rejection of the case of the Applicant. In this connection, it would suffice to quote the decisions of the Hon'ble Apex Court Court in the case of State of West Bengal Vrs. Atul Krishna Shaw and Another, AIR 1990 SC 2205 in which it has been observed by Their Lordships that "giving of reasons is an essential element of administration of justice. A right to reason is, therefore, an indispensable part of sound system of judicial review." Further in the case of S.N.Mukherjee Vrs Union of

India, AIR 1990 SC 1984 it has been held by the Hon'ble Apex Court that the object underlying the rules of natural justice is to prevent miscarriage of justice and secure fair play in action. The expanding horizon of the principles of natural justice provides for requirement to record reasons as it is now regarded as one of the principles of natural justice, and it was held in the above case that except in cases where the requirement to record reasons is expressly or by necessary implication dispensed with, the authority must record reasons for its decision.

7. When on the face of it, the order under Annexure-A/20 is not sustainable; I do not find any reason to keep this matter pending inviting reply from the other side. Hence, the order under Annexure-A/20 is hereby quashed and the matter is remitted back to the Respondents to reconsider the case of the applicant keeping in mind the observation and direction made earlier in OA No. 291 of 2012 disposed of on 12.04.2012 and communicate the decision to the Applicant in a well reasoned order at an early date preferably within a period of 90(ninety) days from the date of receipt of copy of this order.

8. In the result, this OA stands allowed to the extent stated above. There shall be no order as to costs.



9. Subject to furnishing the postal requisites as undertaken by Dr.Sarangi, Learned Counsel appearing for the Applicant, copy of this order along with OA be sent to the Respondents for compliance.

Amit
(A.K.Patnaik)
Member (Judicial)

