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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 963 of 2012
Cuttack, this the 11th day of February, 2015

Namita Dhal Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be referred to PB for circulation?

(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judl.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 963 OF 2012
Cuttack, this the 11th day of February, 2015

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (J)
HON'BLE MR. R.C. MISRA, MEMBER (A)

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Namita Dhal,
aged about 41 years,
W/o Late Subrat Mohapatra,
At present residing Near South Point Nursing Home,
C/o Mr. Fanindra Kumar Mallick, At-Rajabagicha,
PO- Upper Telenga Bazar, Dist- Cuttack.

...Applicant

(Advocates: M/s. N.R.Routray, A. Mishra, S. Das, S.P.Mohapatra, T.K.Choudhury.)

VERSUS

Union of India Represented through

1. Secretary,
Department of Telecommunication,
Ministry of Communication & I.T.,
Sanchara Bhawan, 20 Ashoka Road,
New Delhi-110001.

2. Chief General Manager,
Bharat Sanchar Nigam Ltd,
Orissa Telecom Circle, Bhubaneswar-751001.

3. General Manager (TD), Cuttack,
At/PO- Arunodaya Market,
Dist- Cuttack.

..... Respondents

Advocate(s) : Mr. U.B.Mohapatra (For R-1), Mr. H.K.Mohanty (For R-2 & 3).

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ORDER

A.K.PATNAIK, MEMBER (JUDL.):

Applicant is the widow of late Subrat Mohapatra, who while working as Junior Telecom Officer in the office of Respondent No.3 expired prematurely on 21.09.2001 leaving behind widow, the applicant, a four years son and his parents.

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She has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“.....to quash Order No. RE/9-Gnl/2002/71 dated 19 October, 2012 under Annexure-A/3 and further be pleased to direct the Opp. Parties to reconsider the case of the petitioner and give appointment to the petitioner under compassionate ground; OR

Pass such other order as may deem fit and proper”

2. The case of the applicant is that the entire family was depending upon the earning of her husband and after the death of her husband in the year 2001, the family was left in a lurch without any source of income. Since the family was in a distress condition, she applied for appointment on compassionate ground in her favour on 06.08.2002. She has submitted that whenever she approached the departmental authorities, she was assured to be given appointment on compassionate ground. But, after a gap of 11 years she has been intimated vide letter dated 19.10.2012, Annexure-A/3, that the High Power Committee considered her case and decided that the case of the applicant is not found fit for compassionate appointment. She has challenged the aforesaid order in the present O.A. on the ground that she being a Graduate is eligible to get Group-C post. She has further submitted that since her husband died in the year 2001 and she made application for compassionate appointment on 06.08.2002, her case ought to have been considered for appointment as per DoPT Office memorandum dated 09.10.1998 (Annexure-A/4) as the same was in vogue at that time. It has been submitted that without giving any explanation for non-consideration of her case during the year 2002, Respondents have rejected her case basing upon the guidelines issued on 27.06.2007 in the year 2012. She has, accordingly, assailed

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the application of guidelines dated 27.06.2007 in her case. On the above background of the case, the applicant has prayed for grant of the aforesaid relief.

3. Respondent Nos.2 and 3 have filed their counter opposing the prayer made in the O.A. They have submitted that after the death of Subrat Mohapatra on 21.09.2001, all the terminal benefits were paid to the applicant and family is also in receipt of monthly family pension of Rs. 5,775/-, to be revised from time to time. The applicant applied for compassionate appointment on 29.05.2002 and after completion of the departmental formalities, the case of the applicant, along with others, was placed before the Circle High Power Committee Meeting held on 24.03.2010. The recommendation of the committee was submitted to BSNL Corporate Office, New Delhi for further examination and approval and after taking into account the assets, liabilities of the deceased officer, support arrangements, involved time period, long term commitment/responsibility, overall indigent condition and other required parameters, the High Power Committee of BSNL, Corporate Office, New Delhi regretted the request of the applicant for providing appointment on compassionate ground and intimated the applicant vide letter dated 03.11.2012. They further submitted that the DoPT OM dated 09.10.1998 is still in vogue and the case of the applicant was considered in terms of DoPT guidelines in OM dated 09.10.1998 and BSNL guidelines dated 27.06.2007. The BSNL guidelines dated 27.06.2007 is only the introduction of weightage point system, within the DoPT guidelines of 1998, to bring uniformity in assessment of indigent condition of the family. The vacancies under compassionate appointment quota are limited and the same is offered to the most deserving candidate basing upon the indigent condition of the family and other required parameters. Relying on the decision of CAT, Ahmadabad Bench in OA No. 1177/2008 in the case of Mr.

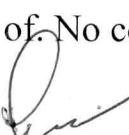


H.C.Patel Vs UOI & Ors. and the judgment of Hon'ble Apex Court in the matter of State of Gujarat & Ors. Vs Arvind Kumar Tiwari & Anr. (Civil Appeal No. 6468 of 2012) and State Bank of India Vs Raj Kumar {(2010) 11 SCC 661}, they have prayed for dismissal of this O.A.

4. We have heard Mr. N.R.Routray, Ld. Counsel for the applicant, Mr. U.B.Mohapatra, Ld. Sr. Central Govt. Standing Counsel appearing for Respondent No.1, and Mr. H.K.Mohanty, Ld. Counsel appearing for Respondent Nos. 2 and 3 and have also perused the materials placed on record.

5. We find from the record that the case of the applicant has been rejected once. Therefore, the case of the applicant needs further consideration twice more in terms of the DOP&T instruction dated 05.05.2003. Hence, we dispose of this OA with direction to the Respondent Nos. 2 and 3 to consider the case of the applicant twice more against the vacancy meant for appointment under compassionate ground in the next CRC whenever convened and communicate the result of such consideration in a reasoned order to the applicant.

6. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.


(R.C.Misra)
Member (Admn.)


(A.K.Patnaik)
Member (Judicial)