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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.NO. 1125 OF 2012  
Cuttack this the 4<sup>th</sup> July, 2013

CORAM

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

Dusmanta Kumar Sahu, aged about 35 years, S/o. late Laxmidhara Sahu, of Vill-Ekchalia, PO-Sangalaisasan, Dist-Puri presently working as Skilled Support Staff in the Central Institute of Freshwater Aquaculture, Kausalyagang, Bhubanesar, Dist-Khurda

...Applicant

By Advocate(s)-Mr.J.Sengupta

-VERSUS-

1. Indian Council of Agricultural Research represented through its Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi
2. Director, Central Institute of Freshwater Aquaculture, Kausalyagang, Bhubaneswar-751 002, Dist-Khurda

...Respondents

By Advocate(s)-Mr.S.B.Jena

**ORDER(Oral)**

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

In this Original Application, applicant has come up with a prayer for ante<sup>e</sup>dating his appointment on compassionate ground to a date when he had applied for such appointment before the Respondent, viz., the Director, Central Institute of Freshwater Aquaculture, Bhubaneswar under the Indian Council of Agricultural Research.

2. The facts of the case are that the father of the applicant while serving in a Group-D post under the Respondent- Organization,

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expired on 9.11.2004 and therefore, the applicant's mother made a representation 4.12.2004 to the Respondent No.2 for providing employment under compassionate ground to her son, who is the applicant in the present O.A. Since repeated representations made by the mother of the applicant as well as the applicant himself did not yield any result, the applicant approached this Tribunal in O.A.No.803/2010, seeking a direction to the Respondents to provide him an employment under the compassionate appointment quota. The Tribunal, after hearing both the parties, disposed of the said O.A. by order dated 6.1.2012, directing the Respondents to take a decision on the letter dated 8.3.2011 and communicate the same to the applicant, preferably within a period of three months from the date of receipt of the order. On receiving the directions of this Tribunal, the Respondent No.1 asked the Respondent No.2 to take appropriate action since he was the competent authority for Group-C post. Subsequently, the Respondent No.2, considering the prayer of the applicant appointed him on compassionate ground to the post of Skilled Support Staff in the scale of pay of Rs.5200-20200/- + Grade Pay of Rs.1800/-. Copy of the order of appointment dated 3.4.2012 is annexed to the O.A. as Annexure-A/10 of the O.A. Applicant has now come with a prayer that the date of compassionate appointment may be ante<sup>e b</sup> dated on the ground that although he made the application for compassionate appointment in December, 2004, <sup>R</sup>but the actual appointment was made on 3.4.2012. His representation was rejected earlier based on the ground of non -availability of vacancy.



3. Heard Shri J.Sengupta, learned counsel for the applicant and Shri SB Jena, learned counsel appearing on behalf of the Respondent-ICAR on the question of admission of this O.A.

4. The learned counsel for the applicant submitted that the applicant has suffered because of the delay in the consideration of his representation for compassionate appointment. Even though at a much later date he has been given a compassionate appointment, he has joined his post. His submission is also that the applicant's father died in the year 2004 and therefore, the applicant was entitled to compassionate appointment immediately thereafter. Because of the delay in his appointment, he has been deprived of the benefits of old pension scheme. His argument was that had he been appointed well in time, he would have enjoyed the benefit of old pension scheme and therefore, his claim for anti<sup>ed</sup>-dating his appointment to his date of application deserves consideration by the Tribunal.

5. On the other hand, Shri S.B Jena, learned counsel for the Respondent-ICAR submitted that compassionate appointment is not a matter of right and it cannot be claimed from a particular date. After the direction of the Tribunal, applicant's representation has been duly considered and he has been appointed under compassionate appointment quota vide order dated 3.4.2012. According to Shri Jena, no further claims are admissible in this case.

6. Having heard the learned counsel of both the sides I have perused the materials on record.



7. The scheme of compassionate appointment has been formulated in order to help the family of the deceased to overcome the sudden financial crisis. An appointment on compassionate ground should not be considered as a normal mode of appointment. It is only an exception to the constitutional provisions contained in Articles 14 and 16 of the Constitution of India, which provide <sup>2</sup>that there can be no discrimination in public employment. In this regard, the relevant portion of the judgment of the Hon'ble Supreme Court in State of Gujarat & Ors. Vs. Arvindkumar Tiwari & another reported in 2013(1) SLR 1(SC) (C.A.No.6468 of 2012) is quoted below.

"It is a settled legal proposition that compassionate appointment cannot be claimed as a matter of right. It is not simply another method of recruitment. A claim to be appointed on such a ground, has to be considered in accordance with the rules, regulations or administrative instructions, governing the subject, taking into <sup>2</sup>consideration the financial condition of the family of the deceased. Such a category of employment itself is an exception to the constitutional provisions contained in Articles 14 and 16, which provide that there can be no discrimination in public employment. The object of compassionate employment is to enable the family of the deceased to overcome the sudden financial crisis it finds itself facing, and not to confer any status upon it (vide UOI & Ors. Vs. Shashanka Gowsami & another, AIR 2012 SC 2294)".

8. It is a position settled by various judgments of the Hon'ble Apex Court that there is no vested right to compassionate appointment. It is only a measure to provide relief to the family of the deceased Government servant because of the crisis caused by the bereavement and the loss of financial support to the family.

*P. S.*

In the present case, the Respondents have considered the case of the applicant for compassionate appointment after the Tribunal gave directions for consideration of the representation, and therefore, the applicant cannot come up with a further claim of ante<sup>re</sup> dating his date of compassionate appointment. Even his claim that he should have been covered under the old pension scheme, because he was due for appointment in the year 2004-2005 is completely devoid of merit. The applicant does not have a prima facie case for consideration by this Tribunal as he has been already provided with relief by the Respondents.

9. In consideration of the above facts and circumstances, the O.A. is dismissed at the stage of admission itself. No costs.

  
(R.C.MISRA)  
MEMBER(A)

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