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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH, CUTTACK

O.A. No.447 of 2013
Cuttack, this the 15th day of July, 2013

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HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)

.....
Shri J.Mangaya, aged about 36 years, Son of Late J.Malaya permanent resident of Srikakulam, Andhra Pradesh presently residing AT/Post-Charbatia, PS-Choudwar, Dist. Cuttack.

....Applicant

(Advocate(s) –M/s.S.K.Ojha, S.K.Nayak)

-VERSUS-

Union of India represented through –

1. Secretary to Government of India, Department of Cabinet Affairs, Cabinet Secretariat, New Delhi-110 001.
2. Director, Aviation Research Centre, Block-V (East), R.K.Puram, New Delhi-110 066.
3. Deputy Director, Aviation Research Centre, At/Po.Charbatia, Dist. Cuttack-754 028.

....Respondents

(Advocate(s)-M/s.B.K.Mohapatra)

ORDER

(Oral)

A.K. PATNAIK, MEMBER (J):

The father of the applicant (J.Malaya), while working as Safaiwala in the ARC Charbatia, Cuttack died prematurely on 5.10.1999. According to Applicant, on 1.5.2002 he applied for

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appointment on compassionate ground and considering his application w.e.f. 2.7.2003 he was provided engagement on casual basis. As nothing was communicated on his application dated 1.5.2002 nor was he provided with appointment on regular basis he approached this Tribunal in OA No. 68 of 2011 which was disposed of by this Tribunal on 26.7.2012. Relevant portion of the order of this Tribunal dated 26.7.2012 is extracted herein below:

“After hearing the parties at length, we have perused the records. **We find the applicant was aged about 39 years at the time of filing this OA and by this he must have crossed the age of 40 years.** However, since it is the specific case of the applicant that the family of the deceased is still in indigence and it is for the Department to consider providing appointment on compassionate ground taking various factors into consideration and that the case of the applicant has not received any consideration, liberty is given to the applicant to make a fresh application supported by all documents required for the purpose within a period of 15 days from the date of receipt of copy of this order and upon receipt of such application the Respondents are hereby directed to consider the same and communicate the decision to the applicant in a well-reasoned order within a period of ninety days from the date of receipt of application from the applicant. With the above observation and direction this OA stands disposed of. No costs.”

2. Thereafter, the applicant was intimated in letter dated 23.4.2013 (Annexure-A/2) as under:

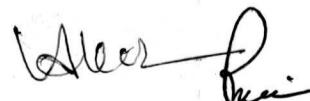
“The case of Sh.J.Mangaya for appointment on compassionate grounds was put up to compassionate appointment committee meeting which was held on 15.03.13. Committee considered the case of Sh.J.Mangaya along with 17

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others, for filing six vacancies on compassionate grounds. The committee scrutinized the details of 18 candidates considering their assets, liabilities, number of dependent family members, income of other family members, educational qualifications of the applicant. The committee recommended the six most deserving candidates for appointment. The committee compared the per (dependent) person family income considering family pension, income of other members, retirement benefits received by the family, liabilities, total numbers of dependent members to find the most deserving candidates and observed that per (dependent) person **income of Sh.J.Mangaya is more than 15 other candidates.** The committee accordingly recommended six most deserving candidates. **Since Sh.J.Mangaya's per (dependent) person income was found to be more than fifteen others, his name was not recommended by the committee.”**

3. In denying the stand taken in the order that the income of the family of the applicant is more than the persons in whose favour recommendation was accorded for appointment on compassionate ground and that the rejection is without giving the comparative statement of the applicant vis-à-vis others, the ^{round} ~~round~~ Applicant has filed this second ^{round} of litigation with prayer to quash the impugned order dated 23.4.2013 (Annexure-A/2) and to direct the Respondents to extend the benefit of compassionate appointment to the applicant in any Gr. C or D post.

4. Having heard Mr.S.K.Ojha, Learned Counsel appearing for the Applicant and Mr.B.K.Mohapatra, Learned Additional



CGSC (on whom copy of this OA has been served) appearing for the Respondents, perused the records.

5. We are convinced that had the Respondents furnished the comparative assessments between the applicant and others in whose favour recommendation was made for appointment on compassionate ground the applicant would not have raised his doubt that there was no proper consideration of his case vis-à-vis others. Having not been furnished the details, we hold that the order is cryptic and as per the law order issued by authority without details is not sustainable in the eyes of law. Hence, the order dated 23.4.2013 at Annexure-A/2 is hereby quashed and the Respondents are directed communicate a reasoned order showing the comparative statements of the applicant vis-à-vis others within a period of thirty days from the date of receipt of copy of this order.

6. We also find that the case of the applicant ^{was} rejected once. Therefore, the case of the applicant needs further consideration twice more in terms of the DOP&T instruction dated 5.5.2003. Hence, we find no justification to keep this matter

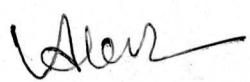
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pending inviting counter from the other side. As such, without expressing any opinion on the merit of the matter this OA is disposed of at this admission stage with direction to the Respondents to consider the case of the applicant twice more against the actual vacancy in the next CRC whenever convenes^d and communicate the result of such consideration in a reasoned order to the applicant. There shall be no order as to costs.

7. As prayed for by Mr. S.K.Ojha, Learned Counsel appearing for the Applicant, copy of this order along with OA be sent to the Respondent No.2 for compliance, at his cost for which he undertakes for furnish the required postal requisites by

17.7.2013.


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


(A.K.PATNAIK)
Member (Judicial)