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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00542 OF 2013

Cuttack, this the 27th day of March, 2015

CORAM

HON'BLE MR. A.K. PATNAIK, MEMBER (J)

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Banani Das,

aged about 30 years,

D/o Late Sachidananda Das,

Resident of Village- Kapileswarpur, PS- Puri Sadar, Dist. Puri,

At present staying at Sankarpur (Dihassahi), PO- Arunodaya Market,

PS- Madhupatna, Town & Dist- Cuttack.

...Applicant

Advocates: Mr. S. Das .

VERSUS

1. Chairman,

C.B.D.T., Income Tax Department,

At- Mayur Bhawan (North Block Connaught Circus),

New Delhi-110001.

2. Chief Commissioner of Income Tax,

Orissa Region, Ayakar Bhawan, Rajoswa Vihar,

PO/PS- Bhubaneswar, Dist. Khurda.

3. Commissioner of Income Tax,

Orissa, Cuttack, At/PO- Arunodaya Market,

PS- Madhupatna, Dist. Cuttack.

4. Addl. Commissioner of Income Tax,

(Head Quarters) (Administration),

O/o Chief Commissioner of Income Tax,

Ayakar Bhawan, Rajaswa Vihar, Bhubaneswar.

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5. Income Tax Officer (OSD) (HoO),

O/o Chief Commissioner of Income Tax,

Ayakar Bhawan, Rajaswa Vihar, Bhubaneswar.

6. Union of India Represented through

Commissioner-cum-Secretary, Department of Revenue,

Ministry of Finance, Central secretariat, New Delhi.

7. Smt. Arnapurna Das,

aged about 60 years,

W/o Late Sachidananda Das,

Village- Kapileswarpur, PS- Puri Sadar, Dist. Puri,

8. Mrs. Subhalaxmi Das,

aged about 30 years,

C/o Niranjana Das,

At- Kadajit, PO- Bramhagiri, Dist. Puri,

..... Respondents

Advocate(s) : M/s. M.K.Das, P.Singh, C.K.Sahu .

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ORDER

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

1. Before stating the present stand taken by the applicant in support of the relief, a recount of the general factual and litigation background would be apt.

2. The Applicant, earlier, alleging non consideration of her case for appointment on compassionate ground as her father died in harness on 13.01.2003 while working as Senior Tax Assistant in the Income Tax Department, she had approached this Tribunal in OA No. 119 of 2008 seeking direction to the Respondent-Department to provide her appointment on compassionate ground. The Respondents objected to such allegation of non consideration and have stated the case of the applicant along with other aspirant candidates who had applied for

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appointment on compassionate ground were placed before the Committee constituted for consideration. The committee recommended the names of four persons against the yeas wise vacancies in which her name did not find place as the claims of persons selected for the year 2002-03 and 2003-04 were much prior to her case. The case of the applicant was considered for Group D post only as she has the qualification of HSC pass whereas the essential qualification for Group C post in their organisation is Degree from recognised university or equivalent and having data entry speed of 8000 key depression per hour. During the period of four years two vacancies from Gr.C and two from Gr.D were available for appointment under 5% quota meant for the purpose. During the four years commencing from 2002-03 to 2005-06 there were four vacancies two each in Gr.C and Gr.D. The Committee constituted for the purpose selected four candidates two for Gr.C and two From Gr.D suitable and eligible for appointment considering their need and economic status in comparison with other candidates. One Ms.Sarojini Acharya was selected against Gr.C vacancy as the applicant was not eligible to hold such post. On 10.02.2010, this Tribunal, after taking into consideration the case of both sides and the extant instructions on the subject, disposed of the aforesaid OA No. 119 of 2008 – relevant portion of the order is reproduced herein below:

“...I see no injustice or miscarriage of justice caused in the decision making process of recommending the names of others by the Committee against the vacancies than the name of applicant as, it is seen that their liability is greater than the present applicant. But at the same time, I do not see any justification for closing the case of the applicant by giving consideration only once as against the vacancies which arose during the above years rather than considering the case of the applicant on two more occasions as provided in the DO&T instruction dated 5.5.2003. Since there has been no substantial compliance of the instruction of the DOP&T instruction dated 5.5.2003, the Respondents are hereby directed to consider the

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case of the applicant for two more occasions and communicate the result of such consideration to the applicant at an early date.”

3. Respondent-Department filed MA for recalling the aforesaid order which was dismissed by this Tribunal. Thereafter, alleging non compliance of the order of this Tribunal in OA No. 119 of 2008, the applicant filed CP No. 3 of 2011 and against the order in OA No. 119 of 2008; Respondent-Department filed WP (C) No. 7639 of 2011 before the Hon'ble High Court of Orissa. While the matter stood thus, Respondent-Department/the Committee considered the case of the applicant once again but rejected the same as intimated vide letter dated 5th/9th August, 2011. The Applicant filed another OA No. 795 of 2011 challenging the said order of rejection dated 5th/9th/August, 2011. During the pendency of the said OA again the case of the Applicant was placed before the Compassionate Appointment Committee held on 27.05.2013 which did not recommend the case of the applicant and reason of such non recommendation was duly intimated to the applicant vide letter dated 03.06.2013. In view of the subsequent development, as aforesaid, on the prayer of the applicant the earlier OA No. 795 of 2011 was disposed of as withdrawn with liberty to file fresh OA. Hence by filing the instant OA, the applicant prays for the following reliefs:

“i) Admit the Original Application;

ii) Call for the Records;

iii) Quash the impugned order of rejection dtd. 5th/9th August, 2011 under Annexure-9, the decision of the Compassionate Appointment Committee which met on 27.5.2013 as well as order dt. 3rd June, 2013 under Annexures-13 and 14 respectively and further be pleased to direct the Respondents to consider the case of the present applicant for appointment as against any of the Group-C posts lying vacant before the case of any other candidates would be considered by the authorities for appointment to such posts within a reasonable time to be stipulated by this Hon'ble Tribunal.



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iv) And also pass any other appropriate order..... ”

4. At this stage, it is apt to quote the reason of rejection of her prayer for appointment on compassionate ground as stated in letter dated 03.06.2013 which reads as under:

“In this connection, I am directed to inform you that as per decision of Hon’ble CAT, Cuttack Bench, Cuttack, your case for compassionate appointment has been carefully re-considered by the Compassionate Appointment Committee which met on 27.05.2013. The Committee did not recommend your case for compassionate appointment as it found that your case is financially not so indigent as to put you in economic penury. Moreover, the Committee found more deserving cases for compassionate appointment.”

5. Respondents have filed their counter in which besides reiterating the grounds of rejection as intimated to the applicant in letter dated 03.06.2013, by placing reliance on various decisions of the Hon’ble Apex Court including the decision rendered in the case of Umesh Kumar Nagpal Vrs State of Harayana, 1994 (4) SCC 138, it has been stated that appointment on compassionate ground cannot be claimed as a matter of right as the very aim and object of the scheme is to tide over the sudden financial crisis caused to the family of the deceased. If it is proved that the family could survive without employment on compassionate ground for a considerable period, providing appointment at a belated stage to one of the members of such family will tantamount to depriving a really deserving candidate for appointment. Accordingly, Respondents have prayed for dismissal of this OA.

6. Applicant has filed rejoinder trying to justify her claim by overcoming the points raised by the Respondents besides more or less reiterating the stand taken in the OA.



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7. It is need to state that the scheme for appointment on compassionate ground is a benevolent legislation made for giving appointment to one of the dependants of the deceased who may be eligible for appointment, purely humanitarian consideration having regard to the fact that unless some source of livelihood is provided the family would not be able to make both ends meet. In other words, the appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of employee while in service leaving his family without any means of livelihood. In such cases the object is to enable the family to get over sudden financial crisis. The Tribunal cannot confer benediction impelled by sympathetic considerations to make appointments on compassionate grounds. I find that the Committee considered the case of the applicant, in compliance of the earlier order of this Tribunal but did not find any justifiability to provide appointment in supersession of the claim of others as the applicant is the only child of Smt. Narayani Das who has three stories house in Cuttack wherefrom house rent of Rs.9, 500/- per month is being received. The mother, after her retirement is getting Rs. 6,275/- per month as pension and except the applicant and her mother there is no other member in the family. The Tribunal is not the appellate authority so as to sit over the decision reached by the competent authority after taking into consideration all aspects of the matter. Judicial intervention in the decision of the competent authority is warranted where injustice is caused in the decision making process of the matter but I see no such eventuality is occurred in the instant case. I find that the authority reached the decision after taking into consideration all aspects of the matter viz; the liability, financial condition of the family etc vis-a-vis the position of the scheme and intimated the said decision to the applicant in a well reasoned order. I also find that the father of the applicant died on 13.01.2003 and



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the family could survive for these years without any support of employment. In view of the discussions made above, I find no ground to interfere in the matter. The OA is accordingly dismissed but in the circumstances there shall be no order as to costs.



(A.K.Patnaik)
Member (Judicial)

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