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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. NO. 602 of 2013

Cuttack the 5th day of September, 2013

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

HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)

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Sri J.Mangaya, aged about 36 years, Son of Late J.Malaya permanent resident of Srikakulam, Andhra Pradesh presently residing At/Po.Charbatia, PS. Choudwar, Dist. Cuttack.

...Applicant

(Advocates: 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 (Est), R.K.Puram, New Delhi-110 066.
3. Deputy Director, Aviation Research Centre, At/Po.Charbatia, Dist. Cuttack-754 028.

..... Respondents

(Advocate: Mr. B.K.Mohapatra)

ORDER

(Oral)

A.K. PATNAIK, MEMBER (JUDL.)

This is the third round of litigation by the applicant regarding compassionate appointment before this Tribunal. In the formerly Original Application, i.e., O.A.No.447 of 2013 decided by this Tribunal vide order dated 15.7.2013, it was observed and directed as under.



"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 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 to communicate a reasoned order showing 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.

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 instructions dated 5.5.2003. Hence, we find no justification to keep this matter pending inviting counter from the other side. As such, without expressing any opinion on the merit of the matter this O.A. 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 convened and communicate the result of such consideration in a reasoned order to the applicant."

2. In compliance of the above order of this Tribunal, Respondents vide Annexure-A/4 have issued Office Memorandum dated 1.8.2003, the relevant portion of which reads as under.

"The application of Shri J.Mangaya was considered by the CAC in its meeting held on 15.03.2013. However, his case was not recommended for compassionate appointment as his per (dependent) person income was found to be more than those recommended by the Committee. A copy of CAC meeting showing comparative statement of per person family income of the candidates considered for compassionate appointment is enclosed for reference.

As per Court Orders, the case of Shri J.Mangaya will be considered two more times by the CAC".

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3. Aggrieved and dissatisfied with the above Office Memorandum, the applicant has approached this Tribunal in the instant O.A.. While praying for quashing the said Office Memorandum, it has further been prayed by the applicant for direction to be issued to Respondents to consider his case in proper way and extend the benefit of compassionate appointment in any Gr.C or Gr.D post without any further delay.

4. We have heard Shri S.K. Ojha, learned counsel for the applicant and Shri B.K. Mohapatra, learned ACGSC on whom a copy of this O.A. has been served appearing on behalf of the Respondents.

5. It is the case of the applicant that before the matter could be placed before the CAC for considering the case of compassionate appointments, the Respondents had sought income certificates of the competent authorities in case of all except the applicant and thereby there has been discrimination. Besides, it is the further case of the applicant that the income which has been shown to be Rs.11,044/- against his name in the Minutes appended to the impugned Office Memorandum is an imaginary figure which is not based on any material evidence. On the other hand, it has been submitted by Shri Mohapatra, learned ACGSC that compassionate appointment being not a matter of right, the O.A. should be dismissed *in limine*.

6. We have considered the rival submissions and given our anxious thoughts to the arguments advanced at the Bar. Admittedly, in the Office Memorandum dated 1.08.2013 the Respondents have conceded to consider the

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case of the applicant for two more chances. Viewed from this, the applicant's case for compassionate appointment is alive for consideration in future for two more occasions ^{and} as ^{when} the CAC would meet. However, since it is the case of the applicant that his income to the tune of Rs.11,044/- which has been shown is an imaginary figure as the applicant has not been asked to submit his income certificates like the other candidates in the zone of consideration, liberty is granted to the applicant to put up a representation to the Respondents in this regard and in the event any such representation is received the latter shall consider and dispose of the same through a reasoned and speaking ^{order} within a period of thirty days from the date of receipt of such representation.

7. With the above observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.


(R.C.MISRA)
MEMBER(ADMN.)


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