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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.785 of 2013
Cuttack this the 11th day of February 2014

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

1. Hemanta Kumar Behera
S/o. Mr.Ramesh Chandra Behera
At-Podabar, PO-Jagatpur
Dist-Cuttack
2. Ramesh Chandra Behera
Aged about 65 years
Ex-Jamadar
O/o.Senior Superintendent
R.M.S.North Division
Cuttack

...Applicant
By the Advocate(s)-Mr.S.Mohanty

-VERSUS-

Union of India represented through

1. The Secretary,
Department of Posts
Dak Bhawan,
New Delhi
2. The Chief Post Master General
Orissa Circle
At/PO-PMG Square
Bhubaneswar,
Dist-Khurda
3. Senior Superintendent
RMS North Div.,
Cuttack
PIN-753 001

...Respondents
By the Advocate(s)-D.K.Behera



ORDERR.C.MISRA, MEMBER(A):

Applicant in the present O.A. has approached the Tribunal praying for a relief that the order of rejection for compassionate appointment dated 8/13.3.2013 vide Annexure-4 of the O.A. may be quashed and the Respondent Nos. 2 and 3 should be directed to give a compassionate appointment to him expeditiously.

2. Facts which have been averred in this O.A. are that the applicant's father was working as Jamadar in the Office of Respondent No.3, viz. Senior Superintendent, RMS (N) Division, Cuttack. He entered service in the year 1966 in Group-D and in course of his employment he became invalidated and was allowed to retire with effect from 30.11.1999 on invalidation ground vide order dated 4.2.2000. He was also examined by the CDMO, Cuttack, who declared him as invalid as per the opinion expressed by the Medical Board. When he retired on the ground of invalidation, he was still left with service of about seven years. After his retirement, there was a situation of distress in the family. As per the scheme of compassionate appointment applicable in the Department of Posts, applicant's elder brother viz., Susanta Kumar Behera applied for a job under the rehabilitation assistance scheme. This application was placed for consideration before the CRC, which in the first instance, while admitting indigent condition of the family, could not provide compassionate appointment because of lack of vacancy in Group-D cadre and therefore, decided to consider his case in the next CRC. The next CRC held on 11.10.2011 also considered the case of the applicant's



brother and again on the ground of no vacancy existed in Group D cadre, could not offer an appointment to him. Thereafter, no CRC was held for the Group-D cadre after 14.11.2006 as there was no vacancy in the subsequent years. In the meantime, Recruitment Rules for Group-D underwent a change vide letter dated 27.01.2011, according to which the minimum qualification required for an MTC is Matriculation or equivalent or ITI from recognized Board. As there was no subsequent vacancy within the reasonable period as per DOP&T letter dated 5.5.2003 and because applicant's elder brother did not fulfill the minimum required educational qualification, the CRC rejected his case and accordingly, intimated this fact to the applicant's elder brother on 11.11.2011. Applicant has submitted in this O.A. that since the application of his elder brother was rejected and in the meantime, educational qualification for recruitment has been changed on the basis of which the case of the applicants' elder brother was rejected, he himself has applied for appointment on compassionate ground as he has the requisite qualification for Group-D post. This application was submitted on 19.2.2013 and this has also been rejected by the authorities in an order dated 8/13.3.2013 filed at Annexure-4 to the O.A. This order mentions that the case of the applicant, who is the 2nd son of the retired Govt. employee was considered and rejected as the case of the first son had already been considered thrice in the CRC previously and the extant rules of the Department do not permit this consideration again. This impugned order is the subject matter of challenge in this O.A.

3. Heard the learned counsel for both the sides and perused the records.

4. The admitted facts of the case are that applicant's brother who was the 1st son of the retired Government employee had been considered for compassionate appointment by the authorities three times. While in the first and second instance, his application was rejected because of lack of vacancy in Group-D post, in the third instance, his case was rejected because of the change in the Recruitment Rules and also non-fulfillment of the required qualification by the first son. After this decision of the authorities was communicated, the second son has now made an application to be considered for appointment on compassionate ground.

5. Law is well settled that appointment on compassionate ground is not a matter of right. It can only be considered within the four corners of the scheme to help the family to tide over the hardships and distress. In the present case, the Government servant retired on the ground of medical invalidation. His first son had applied for compassionate appointment. The Respondents did consider the same as per the rules and on the basis of reasons as stated above, rejected the prayer of the first son for appointment on compassionate ground. In the present O.A. the grounds of such rejection ^{ve} ~~has~~ not been challenged. It is the second son, who had made an application later and his case having been rejected, he has come to the Tribunal seeking relief as aforesaid. The impugned order dated 8/13.3.2013 as stated above, mentions that since the case of the first son was already considered thrice and was rejected on various grounds, the rules of the Department do not permit consideration of the prayer made by the applicant/2nd son.



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6. We do not find anything wrong in the impugned order. There is no provision or rule that if the request for compassionate appointment to one of the dependents is rejected, a further claim preferred by another dependent member of the family deserves to be considered. Applicant has also not substantiated his claim by any conclusive evidence. Appointment on compassionate ground is not an accrued right of the family and as a matter of fact, it cannot be claimed as a family right to be provided at any point of time to any of the dependents^{of} members of the distressed family.

Considered from this view point, the O.A. does not deserve to be admitted and accordingly, the same is rejected. No costs.

(R.C.MISRA)
MEMBER(A)




(A.K.PATNAIK)
MEMBER(J)

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