

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH : PATNA

O. A. No. 582 of 1996

1. Parthasarathi Talpatra, son of Late H.K. Talpatra, resident of Dream Land Hotel Campus, Deoghar, P.O. B. Deoghar, P.S. Deoghar, District Deoghar.

2. Belarani Talpatra, wife of late H.T. Talpatra, resident of Dream Land Hotel Campus, Deoghar, P.O. B. Deoghar, P.S. Deoghar, District Deoghar. ... Applicants.

- Vrs. -

The Union of India & Ors. Respondents.

C O R A M

Hon'ble Shri Sarweshwar Jha, Member (Administrative)

33/21.2.2 002

O R D E R (Dictated in Open Court)

By Sarweshwar Jha, Member (Admn.) :-

The father of the applicant no.1 (Parthasarathi Talpatra) late H.K. Talpatra who was working as Sub-Postmaster of Satsang Post Office, District Deoghar, who was due to retire in the year 1986, sought invalidation w.e.f. 16th July 1983. Therefore, his letter of the same date addressed to the Senior Superintendent of Post Offices, S.P. Division, Dumka. It appears that the respondents took time in getting the process of medical examination of late H.K. Talpatra completed and finally they permitted late ^{Sh.} Talpatra to retire from services on invalidation w.e.f. 26.8.1983. Shri Talpatra died on 2nd November 1984. The applicant no.1, Shri Parthasarathi Talpatra has approached ^{the Bench} through this O.A. ^{with the request} that the impugned order of the respondents dated 31st July 1983 (Annexure-1) be quashed, and further that the respondents be directed

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to consider the case of the applicant for compassionate appointment taking into account the fact that his father sought voluntary retirement w.e.f. 16th July 1983 when he was not 55 years old.

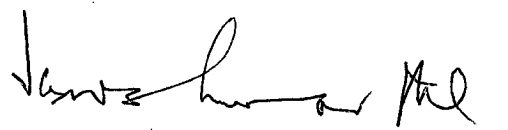
2. The respondents in their written statement have referred to the rules of the Department of Posts, whereby retirement on the ground of invalidation/incapacitation is granted only if the invalidation period in respect of Group 'C' officials seeking consideration for appointment on compassionate ground is before 55 years of age; as the employee (father of the applicant no.1) got retirement on invalidation only on 26th of August 1983, hence the applicant is not eligible for appointment on compassionate ground on invalidation.

3. The learned counsel for the applicant referred to the decision of the Hon'ble Patna High Court in C.W.J.C. No. 7015/96 in Chandra Bhushan Singh vs. the State of Bihar & Ors. by which the Hon'ble High Court held that "while it is true that in such matters delay in making application defeat the right itself, but that it is if the petitioner is guilty of delay in making application. If the authorities considering the application make inordinate delay and consequently the delay is on account of circumstances beyond control of the petitioner, the petitioner's right cannot be defeated on the ground of delay caused by the authorities themselves." In the present case, the learned counsel for the applicant, therefore, also drew a parallel and reiterated that the father of the applicant no.1 made his submissions for retirement on invalidation on 16th July 1983, and, therefore, he should have been granted retirement w.e.f.



that date. He also mentioned that the father of the applicant no.1 stopped attending his office from that date, but the time which ^{was taken by} ~~took~~ the respondents in getting ^{highly} ~~examined~~ and finally declaring him invalid for retirement purposes w.e.f. 26th August 1983 was entirely their responsibility.

4. In the basis of submissions made by the learned counsel for the applicant and also the respondents, and keeping in view the decisions of the Hon'ble Patna High Court referred to above and the materials available on the record, I am inclined to observe that the request of the applicant for appointment on compassionate ground on the basis of invalidation retirement of his father who subsequently died, should be considered by the respondents on the basis of his letter seeking retirement on invalidation on 16th July 1983. The respondents shall complete consideration and decision in the matter within three months of the receipt of this order. With this, the O.A. stands disposed of. There is no order as to costs.


(Sarveshwar Jha)
Member (Admn.)

MES.