

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O. A. No. 260003532016
Cuttack, this the 29th day of June, 2017

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

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1. Smt. Sajani Dakua, aged about 48 years, W/o-Late Khadala Dakua;
2. Manas Kumar Dakua, aged about 22 years, S/o-Late Khadala Dakua; Both are of Vill./PO/PS-Polsara Dist-Ganjam, at present residing at House No. RAY-478/B/142, Vill.-Sankareswar Nagar, Khandagiribari(Near AMRI Hospital), PO/PS-Khandagiri, Bhubaneswar, Dist-Khurda, PIN-751030.

...Applicant

(By the Advocate-M/s. Sarbeswar Barik, D.K. Mohanty-A, P.C. Behera)

-VERSUS-

Union of India Represented through

1. Secretary to Govt. of India, Ministry of Home Affairs, North Block, New Delhi-110001.
1. The Registrar General of India, Ministry of Home Affairs, 21-A, Mansingh Road, New Delhi-110011.
2. The Director of Census Operation, Orissa Bhoinagar, Unit-IX, Bhubaneswar.
3. The Deputy Director, Census Operation, Orissa Bhoinagar, Unit-IX, Bhubaneswar, Dist-Khurda.

...Respondents

By the Advocate- (Mr. S.B. Mohanty)

ORDER

R.C. MISRA, MEMBER(A):

The applicants in this O.A. are the widow and son of late Khadala Dakua who expired on 10.06.2010 while working as MTS in the Office of the Director Census Operation, Odisha, Bhubaneswar. They have challenged the order of rejection in respect of their prayer for compassionate appointment as passed by the Respondents-Authorities and have also prayed that employment assistance may be immediately provided to applicant No.2 on compassionate ground as per DOP&T circular dated 16.01.2013.

2. The facts of the Original Application stated in brief are that the deceased employee at the time of his untimely death left behind his widow one unmarried and unemployment son, two married daughters, one of whom was also in distress condition because of neglect by her husband. The applicant No.1 filed his representation for compassionate appointment in the year 2011 but the said representation was rejected by the Respondents authorities by an order dated 15.05.2012 on the ground that the case was not found most deserving one compared with other cases. After this order of rejection was passed the applicant met the Respondent No.3 & 4 who suggested when her son the applicant No.2 will complete 18 years of age, she may apply for compassionate appointment in his favour. After attaining majority the applicant No.2 made a representation to Respondent No.2 through the Respondent No.4 for consideration of his case. The authorities rejected the prayer by an order dated 18.06.2014 mentioning that earlier the case of the applicant No.1 was considered and was rejected. Therefore, the request of the applicant No.2 cannot be reconsidered since it was not found most deserving for grant of compassionate appointment as replied earlier. This order was challenged by the applicants in the Tribunal by filing O.A. No.686/15. The Tribunal vide order dated 28.10.2015 directed the Respondent No.2 to consider the representation dated 01.07.2015 of the applicants and communicate an appropriate order to them. In obedience to the orders of this Tribunal the Respondents considered the matter and again rejected the prayer for compassionate appointment by an order dated 30.11.2015 which has been challenged in this O.A.

3. Having heard the Ld. Counsels for both the sides I have perused the records of this O.A. The Ld. Counsel for the applicant has argued that the authorities rejected the prayer of the applicant No.1 since in their consideration it was not found most deserving. According to the Ld. Counsel the compassionate appointment scheme is for deserving cases and not for most deserving cases. Further there is no time limit for consideration of cases of compassionate appointment. In O.A. No.686/2015 the authorities were directed to further reconsider the case of the applicants but the Respondents did not actually reconsider the same. On the other hand the Ld. ACGSC has argued that the case of the applicants has been considered for more than once under the scheme for compassionate appointment and since their case was not found to be deserving in comparison to other cases which was considered by the Committee the Respondents could not grant their prayer.

4. While the matter was under hearing, the ACGSC was asked by the Tribunal that vide order dated 28.01.2017 to submit the proceedings of the Review Committee where the case of the applicant has been considered and compared properly with other similarly applicants on the basis of various prescribed parameters. The Ld. ACGSC has submitted the copy of the minutes of the meeting of the Committee for compassionate appointment held on 01.03.2012. In the minutes it has been recorded that seven cases were rejected since they scored less than 60% merit points. The case of the applicant No.1 was one of them. A statement has also been attached to the minutes in which it is shown that the applicant No.1 scored 54 weightage points. Apart from the minutes of the Committee dated 01.03.2012 no such proceedings have been brought to the notice of the Tribunal. It is also found that the applicants have approached the

Tribunal in two previous litigations in O.A. No.19/2016 and O.A. No.686/2015. The Tribunal has issued direction for reconsideration of the case of the applicants. On examining the orders of the authorities dated 15.05.2012 it is found that compassionate appointment of the applicant No.1 was rejected since it was not most deserving. In O.A. No.686/2015 the Respondents were directed to consider the prayer for compassionate appointment of applicant No.2 who is the son of the deceased employee. In the order dated 30.11.2015 the Respondents have come to a conclusion that on account of the limitation of 5% quota against direct recruitment for compassionate appointment, the cases of the various applicants had been considered very carefully. The case of the applicant was considered and he did not meet the bench mark of 60 points and therefore the prayer could not be considered.

5. There is no doubt that compassionate appointment is not a normal method of recruitment to public posts. It is only an exceptional measure to help the deceased family to tide over a situation which is created on account of passing away of the bread winner of the family. The consideration of compassionate appointment has to be made strictly in accordance with the law as laid down by the Hon'ble Apex Court in a catena of judgments. Compassionate appointment cannot be claimed as a matter of right. However, when there are number of applications for compassionate appointment the Committee has to examine according to the parameters laid down and has to objectively analyse the case whether it is to be considered. Therefore there is nothing wrong with the approach of the Respondents authorities the way they have considered the prayer for compassionate appointment, since the decision for compassionate appointment has to be taken in a transparent manner following the merit point system is also appropriate in such cases.

6. Having said that I also found that since the Respondents earlier rejected the prayer for compassionate appointment for the applicant No.1 on the same analogy they have rejected the prayer of the applicant No.2 when making the further examination of the case. This is apparent from the order dated 15.07.2015 issued by the authorities. The other point which needs to be highlighted is that the Ld. ACGSC although produced the minutes of the meeting dated 01.03.2012, but the minutes of all the subsequent meetings that might have taken place were not brought to the notice of the Tribunal. Therefore, the Tribunal is not clearly convinced about the reconsideration given by the authorities. The other point which needs to be considered is that the Respondents-authorities have rejected the prayer since it was not considered "Most Deserving". This has created some confusion in the minds of the applicant that if his case was deserving why it was not considered? The limitation imposed for compassionate appointment to 5% against Direct Recruitment quota is very much acceptable. Therefore, the various prayers for compassionate appointment could be accommodated only when there are vacancies available. Within those limitations, however, I am of the opinion that the prayer for compassionate appointment of applicant No.2 deserves to be considered once more by the compassionate appointment committee, in view of the facts that the Tribunal has not been completely convinced that after the meeting dated 01.03.2012 further meetings were held by the authorities to reconsider the case of the applicants.

7. In view of the discussions made above I direct the Respondents to reconsider the prayer of the applicant No.2 in the next meeting of the compassionate appointment committee. After such reconsideration the decision of the authorities be communicated to the applicants with a reasoned and speaking order within a period of 120 days from the date of receipt of the order.

8. The O.A. is thus disposed of with the above observations and directions with no costs to the parties.

(R.C. MISRA)
MEMBER(A)

K.B.