

ORISSA HIGH COURT: CUTTACK

W.P.(C) NO. 1087 OF 2018

In the matter of an application under Articles 226 and 227 of the Constitution of India.

AFR

Sashikant Singh Petitioner

-Versus-

Steel Authority of India and Opp. Parties
others

For Petitioner : Mr. N.K. Mishra, Sr. Counsel
along with M/s A.K. Roy and
A. Mishra, Advocates.

For Opp. Parties : M/s H.M. Dhal and
G.C. Sahu, Advocates
[O.P. Nos.1 and 2]

P R E S E N T:

**THE HONOURABLE DR. JUSTICE B.R.SARANGI
AND
HONOURABLE MR. JUSTICE SANJAY KUMAR MISHRA**

Date Of hearing and judgment : 30.06.2022

DR. B.R. SARANGI, J. The Petitioner, as the son of Late Krishnakant Singh, who was working as Senior Operator in CRM Department of Rourkela Steel Plant

(RSP), Rourkela, has filed this Writ Petition seeking to quash the Order dated 12.12.2017 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack, in T.A. No. 19 of 2015 dismissing his claim for Compassionate Appointment.

2. The factual matrix of the case, in brief, is that father of the Petitioner Late Krishnakant Singh, while working as a Senior Operator in CRM Department of Rourkela Steel Plant (RSP), Rourkela, suffered from Carcinoma Rectum, which was in advance stage of cancer, and due to Cardio-respiratory failure he died in harness on 16.04.2013. The father of the Petitioner, after initial treatment, being diagnosed with the said terminal illness, before his death, requested the Authority for declaration of his Medical Invalidation and Compassionate Appointment in favour of the Petitioner, vide his application dated 08.04.2013 submitted on 09.04.2013, which was immediately processed on 10.04.2013. When such request, as made vide application dated 08.04.2013, was under process, he

became serious and was admitted in Ispat General Hospital (IGH), Rourkela, on 12.04.2013 and was referred to a Specialized Hospital at Kolkata, which was approved by the Director, Medical and Health Services of IGH. But the request of the father of the Petitioner for Medical Invalidation was pending. During treatment at Kolkata, the father of the Petitioner expired on 16.04.2013. After completion of rituals and finding no other alternative, the Petitioner approached the Authority for Compassionate Appointment to overcome the financial distress and hardship caused due to loss of the sole earning member of the bereaved family as well as to repay the cost of treatment and other expenses. After waiting for two months, as the burden and distress was growing, though the Petitioner submitted reminder on 06.09.2013, but no action was taken on such representation. Consequentially, the Petitioner approached this Court by filing W.P.(C) No. 24681 of 2013, which was disposed of on 14.02.2014 with the following Orders:-

“Heard learned counsel for the Petitioner.

The Petitioner in this writ petition has prayed for a direction to opposite parties to appoint him under the compassionate appointment against any suitable post.

It appears from the record that the father of the Petitioner was working as operator/attendant in Cold Rolling Mill (F) under the Steel Authority of India at Rourkela Steel Plant and while continuing as such he was promoted to the post of Cluster B (Personnel). Thereafter he was promoted to the post of S.R. operative in Cluster C.P. as personal with effect from 31.12.2010. During the tenure of service period he became seriously ill and treated at Plant's hospital and thereafter he was referred to Cancer Institute, Kolkata for treatment and he died on 16.04.2013. After the death of Petitioner's father, the Petitioner has filed a representation on 18.07.2013 before the opposite party no.2 requesting him for compassionate employment on account of his father's death in cancer. However, no action has been taken by opposite party Nos.1 and 2 for which the Petitioner has again sent a reminder application to the authority requesting them to consider the application in its proper perspective and give him employment. The Petitioner has not yet received any reply from the opposite parties. Hence the writ petition.

Learned counsel for the Petitioner submitted that the representation of the Petitioner shall be considered by the opposite parties in view of circular dated 30.08.2011 floated by Steel Authority of India Limited.

Considering the above, this Court disposes of the writ petition with direction to opposite parties Nos.1 and 2 to consider the representation of the Petitioner in view of the circular dated 30.08.2011 regarding the guideline for dealing with compassionate employment cases which was floated by Steel Authority of India Limited. The above exercise shall be completed within a period of six weeks from the date of production of a certified copy of this order.”

2.1 In compliance of the aforesaid Order, though the Petitioner communicated the Order to the Plant Authority, but his claim for compassionate appointment was rejected on the plea that the employee having expired during treatment, there was no scope for the Committee to declare him as medically invalid and it was a case of natural death, and that in absence of any Medical Invalidation being certified by the Committee, no Compassionate Appointment was possible. Aggrieved by such decision of the Authority, the Petitioner again approached this Court by filing W.P.(C) No. 15776 of 2014, which was subsequently transferred to the Central Administrative Tribunal, Cuttack Bench, Cuttack, by virtue of the Notification of the Government

of India. On being transferred, said Writ Petition was renumbered as T.A. No. 19 of 2015 before the Central Administrative Tribunal, Cuttack Bench, Cuttack. Pursuant to notice, the Opposite Parties entered appearance and filed Counter Affidavit justifying rejection of the claim for Compassionate Appointment on the ground that since no Medical Invalidation was made during the life time of the employee, the claim for Compassionate Appointment is not permissible. The Petitioner also filed Rejoinder Affidavit controverting such contention of the Plant Authority. Further, the Petitioner relied upon the Circulars dated 01.01.1996 and 30.08.2011, besides the letter dated 01.12.2014 governing the field, and stressed upon his valid and logical claim to save the family from coming on to the roads citing other instances of such Compassionate Appointment. But the Tribunal, without considering the same in proper perspective and without applying its mind to the documents relied upon by the Petitioner, mechanically came to a conclusion that the death of the Petitioner's father was natural and consequentially

refused to interfere with the same. As a result, the Petitioner was denied the benefit of Compassionate Appointment by the Authority. Hence, this Writ Petition.

3. Mr. N.K. Mishra, learned Senior Counsel appearing along with Mr. A. Mishra, learned Counsel for the Petitioner, contended that the Tribunal has not applied its mind properly and passed the Order impugned rejecting the claim of the Petitioner for Compassionate Appointment holding that the death of the father of the Petitioner is a case of natural death, though it was well known to the Authority concerned that the father of the Petitioner had suffered from cancer and he was on the last stage. Though the father of the Petitioner had filed the application dated 08.04.2013 on 09.04.2013 and the same was processed on 10.04.2013, but the same was kept pending. Thereafter, due to acute illness, the father of the Petitioner was hospitalized on 12.04.2013 and considering the gravity of sufferings, the Director, Medical and Health Services of IGH, referred the case

for treatment at Kolkata, where he succumbed to death on 16.04.2013. Instead of considering the application dated 08.04.2013, which was submitted by the deceased employee on 09.04.2013, for Medical Invalidation, the matter was kept pending and ultimately he died on 16.04.2013. But the Authority held that there was no declaration from the side of the Authority with regard to Medical Invalidation of the father of the Petitioner. The claim made by the Petitioner for Compassionate Appointment cannot have any justification, as the death was natural one. Such a stand is absolutely misconceived and an outcome of non-application of mind, arbitrariness and contrary to the provisions of law. It is further contended that the admitted procedure for consideration of an application for Compassionate Appointment is that the same shall be considered on the basis of recommendation made by the Committee constituted for such purpose. It is also stipulated that the said Committee would meet as per requirement but not later than three months of receipt of an application. It was cited by the Petitioner before

the Tribunal that when the Committee had even met within one day of such application due to reported serious condition of one Potnur Sudhakar, Senior Operator (Non-Crane), FM (M) PL.No.980007, whose application was submitted on 26.04.2014 and the same was considered on the very same day, i.e., 26.04.2014 itself, whereas the benefit was denied to the father of the Petitioner. Thereby, the entire action of the Authority is arbitrary, unreasonable, discriminatory and also hit by Article 14 of the Constitution of India. It is further contended that this fact was brought to the notice of the Tribunal and also it was indicated that the father of the Petitioner was referred to higher medical centre being gravely ill and expired there soon and, therefore, the plea of the Opposite Parties, that the Medical Committee could not meet before the death of the Petitioner's father, is nothing but an attempt to hide their evident inaction and delay. Because of callous attitude of the Authority concerned, the declaration could not be made and ultimately the Petitioner was

deprived to get the Compassionate Appointment who is otherwise entitled to get such benefit.

To substantiate his contention, learned Counsel for the Petitioner has relied upon the judgments of the apex Court in the cases of **State Bank of India v. Anju Jain**, (2008) 8 SCC 475 and **Balbir Kaur v. Steel Authority of India**, AIR 2000 SC 1596.

4. Mr. H.M. Dhal, learned Counsel for the Opposite Parties No.1 and 2, vehemently contended that the Order rejecting the representation claiming for Compassionate Appointment was on the ground that the father of the Petitioner expired on 16.04.2013 while undergoing treatment and before the Committee declared him medically invalid and, therefore, the claim of the Petitioner for Compassionate Appointment is not coming within the purview of the Circular dated 30.08.2011. It is further contended that since there was no declaration by the Committee for Medical Invalidation of the deceased father of the Petitioner, the claim for Compassionate Appointment cannot have any

justification and, as such, rejection of the application for Compassionate Appointment is well justified, which does not warrant interference of this Court.

5. This Court heard Mr. N.K. Mishra, learned Senior Counsel appearing along with Mr. A. Mishra, learned Counsel for the Petitioner and Mr. H.M. Dhal, learned Counsel appearing for Opposite Parties No.1 and 2 by hybrid mode. Pleadings having been exchanged between the parties, with the consent of learned Counsel for the parties, this Writ Petition is being disposed of finally at the stage of admission.

6. The undisputed fact, as emerged from the factual matrix delineated hereinbefore, is that the Petitioner's father, who was working as Senior Operator in CRM Department of Rourkela Steel Plant, Rourkela, suffered from Carcinoma Rectum and made an application dated 08.04.2013, which was submitted on 09.04.2013 and immediately processed on 10.04.2013, for a declaration by the Committee that he is Medically Invalid. When such application was pending, due to

acute illness, he was admitted in the IGH, Rourkela on 12.04.2013 and, for better treatment, was subsequently referred to Specialized Hospital at Kolkata, where he died on 16.04.2013. After the death of his father, though the Petitioner submitted an application for Compassionate Appointment, but the same was rejected, in compliance of the Order dated 14.02.2014 passed by this Court in W.P.(C) No. 24681 of 2013, on the ground that the father of the Petitioner was not declared as medically invalid by the Committee, as per the Circular dated 30.08.2011.

7. It is of relevance to mention, as per Personnel Policy Circular No.1007 dated 30.08.2011, in case of an employee declared incapable to perform his normal duty by the Committee constituted for the purpose, due to his/her physical/mental incapacity due to suffering from Chronic Debilitating Diseases, Compassionate Appointment will be provided to one of the dependent family members on the basis of request made by the employee to that effect. Further, if the employee dies

due to diseases or otherwise before declaration of Medical Invalidation by the Committee, then such death shall be considered as natural death and no Compassionate Appointment is permissible and in which event the dependent family can avail benefits under the Employee Family Benefit Scheme. Admittedly, in the case at hand, the employee expired on 16.04.2013 while he was undergone treatment before the Committee declared him as medically invalid, pursuant to the application made on 08.04.2013. As there was no declaration of Medical Invalidation, in terms of Circular No.1007 dated 30.08.2011, death of the father of the Petitioner was treated as natural. Consequentially, the Petitioner was denied the benefit of Compassionate Appointment. There is no dispute that the Petitioner's father submitted application dated 08.04.2013 on 09.04.2013 for Medical Invalidation. But due to acute illness on 12.04.2013, he was admitted to the IGH, Rourkela, from where he was referred to Cancer Centre Welfare Home and Research Institute, Kolkata. The said referral letter was issued with the

approval of the Director, Medical and Health Services, IGH, Rourkela, who is the Head of the Committee and under whom the application for Medical Invalidation was pending consideration.

8. It is brought to the notice of this Court that earlier Compassionate Appointment was regulated under the Circular No.PL-RR-20(2) dated 01.01.1996 in certain cases of death. The procedure laid down in the said Circular clearly stipulates that the spouse or in absence of the spouse, one of the direct dependents of the deceased employee shall submit an application to G.M. (P&A) through the Head of the Department of the deceased employee, enclosing copies of all the relevant documents, after two weeks of the death and before completion of 12 weeks from the date of demise requesting for employment of an eligible direct dependant for consideration and only being fully satisfied with regard to the coverage of the case, the Management shall consider the nominated eligible direct dependent for employment on compassionate

ground. But such Circular has been superseded by the subsequent Personnel Policy Circular No.1007 dated 30.08.2011, where there is a stipulation that unless Medical Invalidation is declared, one cannot claim Compassionate Appointment. As such, while issuing such Policy Circular, the Authority has failed to take note of the fact that if an employee died, while his application for Medical Invalidation is under process before the Authority, what would be its effect the same has not been indicated. Therefore, the blanket Order refusing to grant Compassionate Appointment, when the application for Invalid Declaration was pending consideration, is absolutely arbitrary, unreasonable and contrary to the provisions of law. Rather, the Authority, in such a situation, should have extended the benefit of Compassionate Appointment to the Petitioner by declaring his father as deemed to be medically invalid, since for the delay and laches on the part of the Employer the employee cannot be made to suffer and, as such, the action of such Employer cannot sustain in the eye of law.

9. It has been placed on record that even on the very same day of application, considering the gravity, Medical Invalidation certificate was issued by the Authority in case of one Potnur Sudhakar, who was working as Senior Operator (Non-Crane) FM (M) having PL No. 98007. He submitted Medical Invalidation application on 26.04.2014 and decision was taken on the very same day, i.e., on 26.04.2014. Similarly, one Rabindra Kumar Sahoo having PL. No.951783 submitted Medical Invalidation application on 20.03.2014 and the same was considered on 28.03.2014, just eight days after. But fact remains, so far as present case is concerned, though the application dated 08.04.2013 for declaration of Medical Invalidation was submitted on 09.04.2013 and the same was processed on 10.04.2013, but it was kept pending till 29.04.2013, when decision was taken by the Committee to the following effect:

“The employee expired while on referral to higher medical centre for treatment on 16.04.2013, i.e., soon after he submitted application for medical invalidation and before the meeting of the Committee. Hence,

his case could not be considered for compassionate employment as per the scheme.”

In the reason for non-grant of Medical Invalidation, as would be evident, it has been indicated that the employee expired while on referral to Higher Medical Centre for treatment on 16.04.2013, i.e., soon after he submitted application for Medical Invalidation and before the meeting of the Committee. Hence, the case of Petitioner could not be considered for compassionate employment as per the Scheme. The said stand has been taken contrary to the stand taken in the Counter Affidavit filed on behalf of the Opposite Parties No.1 and 2 wherein in Paragraph-13 it has been specifically admitted that the father of the Petitioner submitted application on 09.04.2013 seeking Medical Invalidation, which was immediately processed on the next day, i.e., 10.04.2013 and before the application seeking Medical Invalidation could be considered, the father of the Petitioner expired. With the death of the deceased employee, the application seeking Medical Invalidation

was no more available to be pressed into service. The reason so assigned cannot sustain, as on the one hand, it is admitted that the deceased employee had submitted Medical Invalidation application on 09.04.2013 and the same was processed on 10.04.2013, and on the other hand it is stated that on 12.04.2013 he was admitted in IGH, Rourkela, and thereafter for higher treatment he was sent on 14.04.2013 to Kolkata, where he died on 16.04.2013, i.e., before the Committee could declare him Medically Invalid, pursuant to his application dated 08.04.2013 submitted on 09.04.2013.

10. Needless to mention here, if in a similar case on the very same day declaration was made with to Medical Invalidation, meaning thereby, on 26.04.2014 Medical Invalidation application was filed and the decision was taken on the very same day, i.e., on 26.04.2014 itself, therefore, considering the ailments of the father of the Petitioner, the decision should have been taken by the Committee then and there. More so,

it is the Director, IGH, Rourkela, who is the Chairman of such Committee and within his knowledge the things were being done and, as such, he is the person concerned, who had referred the father of the Petitioner for higher treatment. Therefore, being the Chairman of the Committee, he should have taken immediate steps considering the ailments of the deceased employee to declare him as Medically Invalid, pursuant to his application filed on 09.04.2013. Keeping the matter pending at the level of the Committee, subsequent denial of benefits to the Petitioner on the ground that death of his father was natural, cannot have any justification and, as such, the same is contrary to the provisions of law. Furthermore, the same is falsified by the factual scenario that the Petitioner's father was suffering from Cancer, which was in the knowledge of the Authority, as he was under the treatment of the Authority, who recommended his case for higher treatment and, as such, who is nonetheless the Chairman of the Committee. Subsequently, when the Medical Invalidation Certificate was not issued,

although the application for the purpose was pending, it cannot be said that death of the Petitioner's father was natural. As a consequence thereof, the entire findings of the Authority declaring that the death of the father of the Petitioner was natural, is contrary to the records available with it. Relying upon a blatant lie, i.e., the death of the father of the Petitioner was natural, the benefit admissible to the Petitioner cannot be denied by the Authority. Being a model Employer, it is the responsibility of the Opposite Party-Authority to act with all truthfulness and any action taken to the contrary, is to be declared *ultra vires*. Therefore, the action of the Authority is arbitrary, unreasonable and contrary to the provisions of law. Resultantly, the findings of the Tribunal, relying upon the Policy Circular dated 30.08.2011, cannot sustain in the eye of law.

11. In ***Haryana State Electricity Board v. Hakim Singh***, (1997) 8 SCC 85, the Apex Court explained the rationale of the rule relating to

Compassionate Appointment, which is reproduced below:

“The rule of appointments to public service is that they should be on merits and through open invitation. It is the normal route through which one can get into a public employment. However, as every rule can have exceptions, there are a few exceptions to the said rule also which have been evolved to meet certain contingencies. As per one such exception relief is provided to the bereaved family of a deceased employee by accommodating one of his dependants in a vacancy. The object is to give succor to the family which has been suddenly plunged into penury due to the untimely death of its sole breadwinner. This Court has observed time and again that the object of providing such ameliorating relief should not be taken as opening an alternative mode of recruitment to public employment.”

Similar view has also been taken by the Apex Court in ***State of U.P. v. Paras Nath***, (1998) 2 SCC 412, and ***Commissioner of Public Instructions v. K.R. Vishwanath***, (2005) 7 SCC 206.

12. In ***Sushma Gosain v. Union of India***, (1989) 4 SCC 468, the Apex Court pointed out that the purpose of providing appointment on Compassionate grounds is to mitigate the hardship due to death of the

bread earner in the family and that such appointment should, therefore, be provided immediately to redeem the family in distress.

13. In **Director of Education v. Pushpendra Kumar**, (1998) 5 SCC 192, the Apex Court explained the purpose of Compassionate Appointment and pointed out its exceptional nature and the need to take care that its application did not interfere with the right of other persons who are eligible to seek employment.

14. In **Balbir Kaur v. Steel Authority of India Ltd. and others**, AIR 2000 SC 1596 it is categorically held that sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the family. This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a Compassionate Appointment, the grief stricken family may find some solace to the mental

agony and manage its affairs in the normal course of events. This being the reasons assigned, Compassionate Appointment can be granted to a member of the deceased family.

15. In **Umesh Kumar Nagpal v. State of Haryana**, (1994) 4 SCC 138, the Apex Court laid down the principles relating to Compassionate Appointment in clear and emphatic language, which is reproduced below:-

"The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian

consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Class III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved viz. relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule make in

favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

16. In **Govind Prakash Verma v. LIC of India**, (2005) 10 SCC 289, the Apex Court held that Compassionate Appointment is recompense over and above whatever is admissible to the legal representatives of deceased employee as benefits of service which they get on death of the employee.

17. In **Bhabani Shankar Pandit v. Registrar of Co-operative Societies, Orissa**, 2018 (I) ILR-CUT-316, mentioned supra, the purpose of giving Compassionate Appointment cannot be and should not be frustrated by the authority on a flimsy ground, after the death of the deceased employee by causing an enquiry behind his back, when the Petitioner claimed for Compassionate Appointment.

18. In **Anju Jain** (supra), the Apex Court held as under:-

“Appointment on compassionate ground is never considered a right of a person. In fact, such appointment is violative of rule of equality enshrined and guaranteed under Article 14 of the Constitution. As per settled law, when any appointment is to be made in Government or semi-Government or in public office, cases of all eligible candidates must be considered alike. That is the mandate of Article 14. Normally, therefore, State or its instrumentality making any appointment to public office, cannot ignore such mandate. At the same time, however, in certain circumstances, appointment on compassionate ground of dependents of the deceased employee is considered inevitable so that the family of the deceased employee may not starve. The primary object of such scheme is to save the bereaved family from sudden financial crisis occurring due to death of the sole bread earner. It is thus an exception to the general rule of equality and not another independent and parallel source of employment.”

19. In view of the propositions of law, as discussed above, the claim of the Petitioner for Compassionate Appointment should not have been denied by the Authority and, as such, the Tribunal has committed gross error apparent on the face of the record by not appreciating the law in proper

perspective. Applying the same to the present facts and circumstances, rejection of claim of the Petitioner for Compassionate Appointment also cannot sustain.

20. It is contended that the Petitioner has been extended with the Family Benefit Scheme, which is applicable to the Petitioner. The Family Benefit Scheme is one mode of providing the benefit to the bereaved family, but that ipso facto cannot solve all the problems of the bereaved family where the only bread earner of the family expired prematurely. This question has no more remained *res integra*, in view of the judgment of the apex Court in the case of **Balbir Kaur** (supra) and, as such, the very same case belonged to the Steel Authority of India, wherein when benefit of Compassionate Appointment was denied to the Petitioner therein, the same was challenged and the apex Court, after due adjudication, in paragraphs-8 and 13 of the said judgment observed as follows:-

“8. The employer being Steel Authority of India, admittedly an authority within the meaning of Article 12 has thus an obligation to act in terms of the avowed

objective of social and economic justice as enshrined in the Constitution but has the authority in the facts of the matters under consideration acted like a model and an ideal employer- It is in this factual backdrop, the issue needs an answer as to whether we have been able to obtain the benefit of constitutional philosophy of social and economic justice or not. Have the lofty ideals which the founding fathers placed before us any effect in our daily life- the answer cannot however but be in the negative- what happens to the constitutional philosophy as is available in the Constitution itself, which we ourselves have so fondly conferred on to ourselves. The socialistic pattern of society as envisaged in the Constitution has to be attributed its full meaning: A person dies while taking the wife to a hospital and the cry of the lady for bare subsistence would go unheeded on certain technicality. The bread earner is no longer available and prayer for compassionate appointment would be denied, as "it is likely to open a Pandoras Box"- This is the resultant effect of our entry into the new millenium. Can the law courts be a mute spectator in the matter of denial of such a relief to the horrendous sufferings of an employee's family by reason of the death of the bread-earner."

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13. The sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the family- This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made

available with a compassionate appointment, the grief stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of the bread earner, but that would undoubtedly bring some solace to the situation.”

In view of the law laid down by the apex Court, as mentioned above, this Court is of the considered view that the Tribunal has failed to appreciate the law governing field in proper perspective and, therefore, denial of benefit of Compassionate Appointment to the Petitioner cannot sustain in the eye of law.

21. In view of the facts and law, as discussed above, this Court is of the considered view that the Order dated 12.12.2017 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack, in T.A. No. 19 of 2015, cannot sustain in the eye of law and the same is liable to be quashed and is hereby quashed. The Opposite Parties No.1 and 2 are directed to reconsider the case of the Petitioner for giving Compassionate Appointment treating the position of the death of the father of the Petitioner as Medical

Invalidation in terms of the Personnel Policy Circular No.1007 dated 30.08.2011 in the peculiar facts and circumstances of the case, as expeditiously as possible, preferably within a period of three months from the date of production of certified copy of this judgment.

22. In the result, the Writ Petition stands allowed. However, there shall be no order as to cost.

S.K. MISHRA, J.

I agree.

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DR. B.R. SARANGI,
JUDGE

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S.K. MISHRA,
JUDGE

Orissa High Court, Cuttack
The 30th June, 2022, Ashok/GDS