

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 6918 of 2014

Hemanta Kumar Behera and another

.....

Petitioners

Mr. S. Mohanty, Adv.

Vs.

Union of India and others

.....

Opposite Parties

*Mr. C. Pradhan, Sr. Panel,
Central Government Counsel*

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

02.05.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Mohanty, learned counsel for the petitioners and Mr. C. Pradhan, learned Senior Panel, Central Government Counsel.

3. The petitioners have filed this writ petition challenging the order dated 11.02.2014 passed in O.A. No. 785 of 2013 under Annexure-5, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has rejected the claim of second son of petitioner no.2 for getting compassionate appointment.

4. Mr. S. Mohanty, learned counsel for the petitioners contended that due to invalidation of father of petitioner no.1, i.e., petitioner no.2, the elder brother of petitioner no.1 made an application for appointment on compassionate ground which was though considered but kept pending to be considered as and when vacancies arose. When such matter was pending, second son of petitioner no.2, i.e., petitioner no.1, made application for compassionate appointment which was rejected by the authority. Challenging the said order of rejection, petitioner no.1 approached the tribunal and in turn, the tribunal, also rejected the claim of the petitioner. Therefore, the petitioner has approached this Court by filing the present writ petition.

5. Mr. C. Pradhan, learned Senior Panel, Central Government

Counsel contended that the application filed for compassionate appointment by the elder brother of petitioner no.1 was rejected by the authority on the ground of educational qualification. Thereafter, the application filed by petitioner no.1 was also rejected by the authority on the ground of change of rules governing the field. Thereby, tribunal has not committed any error apparent on the face of the order so as to warrant interference of this Court.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that the father of petitioner no.1 was working as Jamadar in the office of Senior Superintendent, RMS (N) Division, Cuttack. He entered into 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 04.02.2000. 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 to the employees of the Department of Posts, the elder brother of petitioner no.1 applied for a job under the rehabilitation assistance scheme. The said application was placed before the CRC for consideration and at 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, it was decided to consider his case in the next CRC. The next CRC held on 11.10.2011 also considered the case of the elder brother of petitioner no.1 and again on the ground of no vacancy existing 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 MTS is matriculation or equivalent or ITI from recognized Board. As there was no subsequent vacancy within reasonable period, as per DOP&T letter dated 05.05.2003, and as because elder brother of petitioner no.1 did not fulfil the minimum required educational qualification, the CRC rejected his case, vide letter dated 11.11.2011. Since in the meantime the educational qualification for recruitment was changed, on the basis of which the case of elder brother of petitioner no.1 was rejected, he himself applied for such compassionate appointment, as he has requisite qualification for Group-D post, before the authority on 19.02.2013, which was rejected by the authority vide order dated 08/13.03.2013, on the ground that the case of 1st son was considered thrice in the CRC previously and the extant rules of the Department does not permit to consider again. Being aggrieved by the said order, petitioners approached the tribunal by filing O.A. No. 785 of 2013 and the tribunal, vide order dated 11.02.2014, came to a definite finding that compassionate appointment can only be considered within the four corners of the scheme to help the family to tide over the hardships and distress, and in the present case, the government servant was retired on the ground of medical invalidation and his first son had applied for compassionate appointment and the opposite parties did consider the same as per the rules and rejected the prayer of the first son for appointment on compassionate ground. The tribunal, by further holding that the original application, having been filed by the second son of retired government employee, cannot sustain in the eye of law, rejected the original application filed by the petitioner no.1. Against the said order passed by the tribunal, the

present writ petition has been filed by the petitioners. As it appears, the application of petitioner no.1, who is second son of the retired government employee, i.e., petitioner no.2, has been rejected by the authority as per DOP&T OM No.14014/19/2002-Estt.(D) dated 05.05.2013, wherein it has been specifically mentioned that a case for compassionate appointment shall be considered for maximum three times. But in the instant case, the claim made by the elder brother of petitioner no.1 has been considered thrice, as per rules and guidelines of the Department. In such view of the matter, the claim of the petitioner no.1 cannot sustain in the eye of law and, as such, the tribunal is well justified in passing order impugned which does not require any interference of this Court.

6. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Sukanta