

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P (C) No.3857 of 2017

**Chief General Manager Telecom
Orissa Circle, Bhubaneswar and
another**

.....

Petitioners

Mr.S.B.Jena, Adv.

Vs.

Anil Kumar Singh and others

.....

Opposite Parties

*Mr. Panchanan Panigrahi, Adv.
(O.P.1)*

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

ORDER
22.04.2022

Order No.
07.

This matter is taken up through hybrid mode.

2. The petitioners, who are the functionaries of Union of India, have filed this writ petition assailing the order dated 21.10.2016 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.1022 of 2012, by which the tribunal coming to hold that the authority ought not have rejected the claim of opp. party No.1 for compassionate appointment by applying the O.Ms. of 1998 or 2007, quashed the order of rejection dated 17th December, 2011 and remitted the matter back to the present petitioners to reconsider the case of opposite party no.1 as per the Scheme which was in vogue at the time of death of the concerned employee.
3. While issuing such a direction, the tribunal has taken note of judgment of the apex Court rendered in the case of ***Canara Bank and another v. M.Mahesh Kumar (Civil Appeal No.260 of 2008)*** disposed of on 15th May, 2015.
4. Learned counsel for the petitioners contended that opp. party No.1 is not entitled to get compassionate appointment in view of O.Ms of 1998 or 2007. Therefore, the relief sought by opposite party

no.1 cannot be granted to him. As such, the tribunal has committed an error while quashing the rejection order dated 17.12.2011 and remitting the matter back to the authority concerned to re-consider the same in accordance with law.

5. Learned counsel for opp. party No.1 contended that the ratio decided in the case of *Canara Bank* (supra) has also been followed in the case of *State of Madhya Pradesh and others v. Ashish Awasthi*, 2021 (II) OLR (SC) 1072. Therefore the case of opp. party No.1 is fully covered by those two judgments. As a consequence thereof, the order passed by the tribunal is well justified which should not be interfered with.

6. Having heard learned counsel for the parties and after going through the records, it appears that opp. party No.1 has claimed compassionate appointment due to the death of his father, late Howda Singh, who was working as L.I. (O) and died prematurely on 07.03.2002, as a result of which, employment assistance on compassionate ground in favour of the opp. party No.1 was sought by his family. Accordingly, opp. party No.1 made an application for grant of compassionate appointment, but the same was not considered. Therefore, against non-consideration of the grievance made by opp. party No.1, he approached the Central Administrative Tribunal in O.A. No.49 of 2009, which was disposed of on 23.09.2009 with a direction to the petitioners to consider the case of the opp. party No.1 as expeditiously as possible preferably within a period of 180 days from the date of receipt of a copy of the said order. Accordingly, the present petitioners considered the case of the opp. party No.1 and vide letter dated 17th December 2011 rejected the claim of opp. party No.1 in view of the guidelines issued by the authority, which was the subject matter of challenge in the Original

Application bearing O.A. No.1022 of 2012. On considering the same, the tribunal held that whether consideration of the case of opp. party No.1 in the year 2011 by applying the yardstick of the year 1998 or of 2007 is justified. In this context, reliance was placed by the opp. party No.1 on the judgment of the apex Court in the case of ***Canara Bank*** (supra), wherein the apex Court held that the appeals preferred by the appellant-bank are dismissed and the appellant-bank is directed to consider the case of the opp. party No.1 for compassionate appointment as per the Scheme which was in vogue at the time of death of the concerned employee.

7. In view of such position, the case of the opp. party No.1 should be considered at the time the Scheme was prevailing when the father of opp. party No.1 died. The said view was also taken by the apex Court in the case of ***Ashish Awasthi*** (supra). Accordingly, we do not find any illegality or impropriety in the order dated 21.10.2016 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.1022 of 2012 so as to warrant interference by this Court.

Accordingly, the writ petition, being devoid of merit, stands dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Arun/Bichi