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Government of Orissa  
General Administration Department

No. SC.16-1/20 3033 /Gen., Bhubaneswar, dated 08-1-77  
To

All Departments of Government,  
All Heads of Department,  
All Collectors

Sub: Appointment of family members of the deceased employees under Rehabilitation Assistance Scheme - Rulings of the Hon'ble Supreme Court of India.

The undersigned is directed to say that the Hon'ble Supreme Court in its judgements as indicated below has observed various aspects in the matter of appointment of family members of the deceased employees under Rehabilitation Assistance Scheme. The rulings of the Supreme Court which are reproduced below may be kept in view while considering cases of compassionate appointment :-

(a) The Supreme Court in its judgement dated April, 3 - 1973 in the case of Auditor General of India and others - Vrs - G. Ananta Rajeswara Rao ( (1974) I SCC-192) has held that appointment on grounds of descent clearly violates Article 16(2) of the constitution; but if the appointment is confined to the son or daughter or widow of the Govt. servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.

(b) The Supreme Court's judgement dated May-4, 1974 in the case of Umesh Kumar Dogra - Vrs - State of Haryana and Others (Jt 1974(3) S.C.525) has laid down the following important principles in this regard :-

(i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.

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(ii) The posts in Group-'C' and 'D' (formerly Class-III and IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other post i.e., in the Group-'A' or Group-'B' category is expected or required to be given for this purpose as it is legally impermissible.

(iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.

(iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased Govt. servant is legally impermissible.

(v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased Govt. servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.

(vi) Compassionate appointment can not be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.

(vii) Compassionate appointment can not be offered by an individual functionary on an adhoc basis.

(c) The Supreme Court has held in its judgement dated February 23, 1995, in the case of the Life Insurance Corporation of India - Vrs - Miss. Asha Ramachandra Ambekar and Others (JT 1994(2) S.C. 183) that the High Courts and Administrative Tribunals can not give direction for appointment of a pension on compassionate grounds but can merely direct consideration of the claim for such an appointment.

(d) The Supreme Court has ruled in the cases of Himachal Road Transport Corporation - Vrs - Dinesh Kumar (JT 1996(5) S.C.319) on May-7, 1996 and Hindustan Aeronautics Limited Vrs- Smt. A. Radhika Thirumalai (JT 1996(9) S.C.197) on October-2, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.

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(e) The Supreme Court has held in its judgement in the case of State ofaryana and others - Vrs - Rani Devi and others (JT 1996(6) S.C.646) on July-15, 1996 that if the Scheme regarding appointment on compassionate ground is extended to all sorts of casual, ad hoc employees including those who are working as Apprentices, then such scheme can not be justified on constitutional grounds.

It is, therefore, requested that the above observations of the Hon'ble Supreme Court may be kept in view by the appointing authorities while considering the cases of appointments of family members of the deceased employees under Rehabilitation Assistance Scheme.

The subordinate offices under their control may be intimated accordingly.

Memo No.

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Special Secretary to Government

/Gen., Dated 28-1-99

Copy forwarded to all branches of G.A. Department for information and necessary action / Copy to Guard file.

Additional Secretary to Government

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