

## **National Commission for Scheduled Tribes**

**Sub: Proceedings of the hearing held in the NCST on 22.10.2008 at 03.00 PM to discuss the case of Smt. Annapurnabai M. Donikar, Nagpur about the appointment of her son in Income Tax Department on compassionate ground.**

The following were present:

### **NCST**

1. Shri Maurice Kujur, Hon'ble Vice-Chairperson (in Chair)
2. Shri Aditya Mishra, Joint Secretary
3. Shri. R/.P. Vasishtha, Deputy Secretary,
4. Shri. K.C. Behera, PS to Vice-Chairperson

### **Income Tax Department**

1. Shri M.K. Moghe, Chief Commissioner of Income Tax, Nagpur.
2. Shri Narendra Kane, Deputy CIT (HR), Nagpur.

### **Petitioners:**

1. Smt. A.M. Donikar
2. Shri C.M. Donikar

**Issue: Appointment of Shri C.M. Donikar, third son of Smt. A.M. Donikar, widow of late Shri M.G. Donikar who expired in January,1990 while working as LDC in CIT, Nagpur.**

### **Background**

A representation dated 07.09.2007 was received from Smt. Annapurnabai M. Donikar, Nagpur, Maharashtra regarding compassionate appointment of her son in Income Tax Department. The matter was taken up by the Commission and a reply, dated 09.10.07 was received from the O/o Chief Commissioner (IT), Nagpur rejecting the request of Smt. Annapurnabai M. Donikar mainly on the ground that her two sons were employed. The reply was communicated to Smt. Donikar and she submitted a further representation, dated 09.01.2008. She stated that she had already submitted an affidavit, dated 13.01.2006 to the Income Tax authorities that she was living with and dependent on her third son who was un-employed. She requested for employment of her third son on the ground that her two sons were employed but living separately and were not supporting her. She had sent certain documents showing that she was not living with her employed sons and that she is fully dependent on her third son, namely Shri. C. M. Donikar, who is unemployed. The matter was again taken up with the Chief Commissioner of Income Tax by the Commission on 17.01.2008 and in response earlier reply was re-iterated by the IT authorities. Thereafter, a

D.O. letter, dated 29.05.08 was sent from Joint Secretary, NCST to the Chief Commissioner (IT), Nagpur but the claim of Smt. Donikar was not accepted.

### **Discussion**

It was explained by Shri M.K. Moghe, CCIT, Nagpur that late Shri M.G. Donikar expired on 11/01/1990 and an application for compassionate appointment was received from his daughter Ms. Savita M. Donikar in March, 1990. The request of Ms. Savita was rejected on the ground that two sons of late Shri. Donikar were already in Govt. service. During August, 1997, Smt. A.M. Donikar, widow of late Shri M.G. Donikar, requested for compassionate appointment of her third son, namely Shri C.M. Donikar who was unemployed. The request of Smt. Donikar was rejected on the same ground i.e. on the ground that her two sons were in employment. The Income Tax Department informed that the petitioner was drawing a family pension of about Rs. 3000/-. It was also mentioned that beyond the self-supporting affidavits, the petitioner had not produced any evidence in support of her contention that her employed sons had refused to support her. CCIT, Nagpur also cited the following pronouncements of the Supreme Court in another such case:-

- (i) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible; and
- (ii) Compassionate appointment cannot be granted after a lapse of a reasonable period **and it is not vested right which can be exercised at any time in future.**

While explaining his inability to accept the claim of Smt. Donikar for compassionate appointment of her son, CCIT, Nagpur stated that they will explore the possibility to help her by arranging some part time/full time job on temporary basis for her son in Income Tax Department.

The Commission noted that Smt. Donikar had approached the Commission in September, 2007 i.e. after a period of about 17 years after the death of her husband. The Commission noted the position explained by CCIT, Nagpur, particularly the fact that two sons of Smt. Donikar were in Govt. service. It was also noted that in the given circumstances, it was beyond the competence of CCIT, Nagpur to give compassionate appointment to the son of the petitioner. It was further noted that the claim of Smt. Donikar

could be considered for acceptance only at the level of Secretary, Ministry of Finance, Department of Revenue as per provisions under the rules.

-3-

The Commission, therefore, advised Smt. Donikar to take into account the above position. The petitioner (Smt. Donikar), however, requested that CCIT may also forward her case to the Secretary, Department of Revenue for consideration and also help her son in getting job in some organization in the meantime.

### **Recommendations**

Taking into account the rule position mentioned above, and the request of the petitioner, the Commission recommended that (i) the CCIT, Nagpur should forward the request of Smt. A.M. Donikar to the Secretary, Ministry of Finance, Department of Revenue for sympathetic consideration of the compassionate appointment of her third son and (ii) CCIT, Nagpur should help the son of Smt. Donikar in getting some part time/full time job in the Department and apprise the Commission of the position in this regard within a month.