

Qm. 21. 4. 3. 04

Required Postage for sending
of copies of order
to the Respondents with envelope.

Copies of order
communicated to all
Respondents and copies
of said order pre-
pared for counsels
for both sides.

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ORDER DATED 04-03-2004

Heard Mr. J. K. Rath, Learned Counsel
appearing for the Applicant and Mr. B. Dash,
Learned Additional Standing Counsel, appearing
for the Respondents and perused the
materials placed on record.

For the reason of premature
death of his father, applicant sought for
a compassionate employment to over come the
distress condition of the family. No heed
having been paid to the said grievance,
the Applicant approached this Tribunal in
the original Application No. 76/97. In that
case the Respondents gave an undertaking
that the grievance of the applicant shall
be looked into. Relevant portion of the
order dated 25.5.00 of this Tribunal rendered
in the said O. A. No. 76/97 are extracted
herein below:-

"Before considering the stand of
the Respondents, it has to be noted
that from the above recital of
facts it is clear that the Res-
pondents have already decided to
give compassionate appointment to
the Applicant on availability of
a suitable vacancy. In view of this
it is not necessary to go into any
facts regarding the need for
compassionate appointment for the
purpose of rehabilitation of the family of the deceased employee."

xxx xxx
xx xx, taking into account the
performance of the applicant in
the test for Air craft Asst., a
view should be taken by the
Respondents regarding appointment
of the Applicant to the post of Air
Craft Assistant within a period of
60 days from the date of receipt of a
copy of this order and intimate the
result to the Applicant".

ON 607/01

However, having not been found suitable for the post of Air Craft Assistant, he was given an offer for the post of Cook. Again the Applicant was not found suitable for the post of Cook; for which he was given an offer of appointment as Safaiwala/Sweeper; but apparently, the Applicant did not agree with such an offer. On the face of the undertakings given by the Respondents in O.A. No. 76/97, the subsequent O.A. No. 607/01 filed by the Applicant was disposed of on 15.5.2002, virtually with a direction to the Respondents to provide a suitable employment to the Applicant either as Gardner/Mali or as a Peon/such similar post in Gr.D category.

Despite the aforesaid repeated orders dated 15.5.02 (rendered in O.A. No. 607/01) Respondents have not cared to provide a Gr.D employment to the Applicant as yet; for which the Applicant has filed the present M.A. No. 597/03 in this disposed of matter of O.A. No. 607/01. In the objection filed by the Respondents in MA No. 597/03 it has been disclosed that only 5% vacancies have been earmarked for providing compassionate appointment and, therefore, the Respondents have not been able to provide an employment on compassionate ground to the applicant in Gr.D post. Cause of action in the present case having arisen long before the imposition of 5% condition, such an objection is not sustainable and the Respondents are bound down by their own undertakings given repeatedly and as a consequence, the Respondents are hereby directed to provide a compassionate employment (even in a Gr.D post) to the Applicant and, in the peculiar circumstances of the case, a

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time limit of ninety days is hereby fixed; by which time, the Respondents should provide a compassionate appointment to the Applicant in Gr.D post so that he can save himself/his family from starvation, M.A. No. 597/03 is accordingly disposed of.

Send copies of this order to the Respondents at the cost of the applicant; and free copies of this order be given to learned counsel for both sides. Learned counsel for the applicant undertakes to deposit the cost of sending the order to the Respondents, within a period of seven days hence.

Y. S. S.
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)