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O.A.No. 414 of 2006

Order dated 29.01.2008.

Mr.M.K.Rath, Learned Counsel appears for the Applicant and Mr. U.B.Mohapatra, Learned Senior Standing Counsel (Central) appears for the Respondents. Heard them and perused the materials placed on record.

The case of the Applicant, in nut shell, is that his father died prematurely while in service on 16.12.2002. Thereafter he submitted his application before the competent authority for appointment on compassionate ground. His case was considered by the Circle Relaxation Committee (in short 'CRC') held on 14.01.2004. Respondent No.2 conveyed that his case has been considered but rejected by the CRC on the ground that sons are major and family has no liability except one minor daughter. His representation against this order of rejection has met with no success and, therefore, he has approached this Tribunal in the present Original Application filed U/s. 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

- "(a) To pass appropriate orders quashing the order in letter dated 5.3.2004 in Annexure-A/3;
- (b) To pass appropriate orders directing the Respondents/authorities to provide the applicant an employment on compassionate ground in any

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Group D post under the Koraput Postal Division; and

(c) To pass such further order/orders as are deemed just and proper ~~in~~ the facts and circumstances of the case and allow this OA with costs."

He has also sought for interim order that pendency of this

OA shall not stand as a bar on the Respondents to reconsider the case of Applicant and to provide him an employment on compassionate ground.

On 09.05.2006 while directing notices to the Respondents it was directed that pendency of this OA shall not stand as a bar on the Respondents to consider the representation of the Applicant.

Learned Counsel for the Applicant submits that the family of the deceased employee is still in indigent condition and under the extant instructions, he has a right to be considered three times whereas his case has been considered only once.

The contention of the Learned Senior Standing Counsel for the Respondents is that the condition of the family of the deceased/Applicant was not found to be ~~in~~ indigent circumstances compared to others who were considered by the CRC and three posts of Postal Assistant, one post of Postman and one Gr. D post which were available have already been filled up by more deserving candidates. He submits

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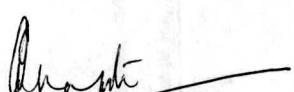
that there were no vacancies available within the 5% quota meant to be filled up by compassionate appointment.

I have carefully considered the submissions made by the parties. The DOP&T vide its order dated 14th June, 2006 have decided that 5% ceiling may be calculated on the basis of total direct recruitment vacancies for Group C and D posts (excluding technical posts) that have arisen in the year. Total vacancies available for making direct recruitment would be calculated by deducting the vacancies to be filled on the basis of compassionate appointment from the vacancies available for direct recruitment in terms of existing orders on optimization. This modification to the earlier instructions of the DOP&T dated 9th October, 1998 gives a scope for increasing the total number of vacancies to be filled up by compassionate appointment. This would also enable the competent authority to consider appointment of more number of persons on compassionate ground.

In view of the above, there is every likelihood of availability of more vacancies under the compassionate appointment quota and the case of applicant can be considered for two more occasions.

In the light of the above, this OA is disposed of with

direction to the Respondents to consider the case of applicant, notwithstanding the order of rejection, against subsequent vacancies meant for compassionate appointment along with others, by taking into consideration the indigent conditions of the family warranting compassionate appointment vis-à-vis other such candidates, if not considered earlier and communicate the decision, in this regard to the Applicant within a period of three months from the date of receipt of a copy of this order. No costs.


(C.R. MOHAPATRA)
MEMBER(ADMN.)

KNM/PS.

Copies of final
order issued to
Counsel for both
Sides.

Dec 1, 2008
S. O.