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O.A. No.118/2009

ORDER DATED 31<sup>st</sup> July, 2009

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

Indrajit Patel & Others..... Applicants.

V.

Union of India & Ors. .... Respondents.

Heard Mr. M. Basu, Ld. Counsel for the applicants  
and Mr. R.C. Behera, Ld. Counsel for the Respondents.

2. The applicants, 16 in number, are now working  
as Accounts Clerk-cum-Typists (ACTs) in Neheru Yuva  
Kendra Sangathan (NYKS), located in various districts in the  
State of Orissa, have filed this Original Application with the  
following prayer:-

- “ (a) Leave be granted to file this application  
jointly under Rule 4 (5) (a) of the CAT  
(Procedure) Rule 1987 having same  
cause of action.
- (b) To quash the advertisement published vide  
Annexure-4 series in respect of fresh  
selection for the entire vacant post of DYC  
on deputation basis.
- (c) To direct the Respondent No.2 to hold  
DPC and to give promotion to the present  
applicants in the post of DYC.
- (d) To direct the Respondent No.2 to modify  
the advertisement published vide  
Annexure-4 keeping in view the DOPT  
instruction of the Govt. of India and also  
keeping in view the sanctioned order  
passed by the Ministry of Finance.
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- (e) To direct the Respondents to produce relevant records with copy to the Ld. Advocate of the applicant.
- (f) Any other order or further orders/s and/or direction/s, as to this Hon'ble Tribunal deem fit and proper."

3. When the O.A. came up for admission on 01.04.09, this Tribunal directed the applicants to produce any document to show that they are coming under that category or not. On 04.05.09 Mr. R.C. Behera, Ld. Counsel for the Respondents, appearing on notice, was directed to get the Recruitment Rules regarding the post of District Youth Co-ordinator and also to verify whether the post of DYC is a promotional post of Accounts Clerk-cum-Typists or any reservation or quota is fixed for the Accounts Clerks-cum-Typists. However, till date neither the applicants nor the Respondents are in a position to find out the Recruitment Rules or the service rules regarding the promotion<sup>?</sup> even different cadres of the employees of the Respondents No.2.

4. The main thrust given by the applicants for filling of this O.A is that they were working as Accounts Clerk-cum-Typists (ACTs) from years back and as per Annexure-A/4 advertisement the Department invited applications to fill up the posts of District Youth Co-ordinators on adopting a method of direct recruitment or rather deputation from other Departments or from the Department itself. It is the further case of the applicant that if the applicants are not promoted to the post of District Youth Co-ordinators, it will cause irreparable loss to

them. Hence this Tribunal admitted the O.A. and waited for the rules regarding promotion and the cadres of the Department. However, the Ld. Counsel for the applicants is not in a position to produce the service rules before us to show that the post for which application is invited as per Annexure-A/4 series is a promotional post for Accounts Clerk-cum-Typists (ACTs). However, it is discernible from Annexure-A/4 series advertisement that there are 161 posts of District Youth Coordinators to be filled up on the pay scale of Rs.8000-275-13500 in different states/UTs on deputation basis from among the officers holding analogous posts in the department of the Govt. semi Govt. Institutions or autonomous bodies within 3 years experience in work relating to Youth Rural Development, Community Development, Social Welfare or Woman and Child development or officers in the pay scale of s.6500-200-10500 with 5 years regular service in the grade.

5. Unless it is proved before this Tribunal with sufficient material or rather with the Recruitment Rules, or the promotional rules, that the post of Accounts Clerk-cum-Typists is the feeder grade for promotion to the post of DYC and that the applicants have a right to be considered for promotion to the cadre of DYC, this Tribunal cannot interfere with the process of filling up the posts of DYC as per Annexure A/4 series. In the circumstances, we see that the O.A. is devoid of any merit so far as the prayers made in Para 8 (a), (b), & (d) of the O.A. are concerned. With regard to prayer (c), it is the Department which has to convene and hold the meeting of the



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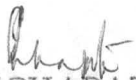
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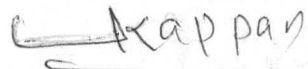
Departmental Promotion Committee on the basis of the Service Rules and the applicants may file fresh representation before the Department.

6. The interim order stands vacated.

7. The further proceedings with reference to Annexure-A/4 is subject to the result of the representation filed by the applicants.

8. With the above observation, the Original Application is disposed of. No costs.

  
(C. R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K. THANKAPPAN)  
JUDICIAL MEMBER