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O.A.NO.189 of 2009

Order dated ... 20.05.09

CORAM:

THE HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

AND

THE HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

The two applicants, viz., the wife and daughter of one Umakanta Padhi have filed this Original Application under Section 19 of the A.T.Act, 1985 to direct the Respondents to appoint applicant No.2 to any post befitting to her qualification in Gramina Daka Seva under compassionate ground.

2. It is the case of the applicants that since 11.9.1999 the G.D.S. employee Umakanta Padhi has been found missing, and in accordance with the provisions of the scheme for compassionate appointment, applicant No.2 is entitled for compassionate appointment. The applicants have also relied on Clause 11 of the Scheme for compassionate appointment in support of their case.

3. We have heard the learned counsel appearing for the applicant and perused the averments made in the O.A.

4. It reveals from the records that Shri Umakanta Padhi, while serving as G.D.S. M.C. in Tumbagada Branch Post Office, on being implicated in a P.S.Case left the house on 11.9.1999 without the knowledge and

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intimation to other members of the family. It is stated that the criminal case could not proceed due to absconding of the husband of applicant No.1 and ultimately, the G.R. case was consigned to District Record Room. The records further reveal that in response to a representation dated 19.7.2006, applicant No.1 was required to furnish a copy of FIR lodged with the police regarding absconding of her husband (Annexure-A/2 dated 4.8.2006). However, it reveals from the records that applicant No.1 is yet to supply a copy of the FIR as required by the Department, although there are some communications in between. In the above background, the present O.A. has been filed with the prayer as referred earlier.

5. Clause 11 of the Scheme deals with compassionate appointment to the defendant in the case of a missing employee. Sub-clause (a) of Clause 11 of the Scheme provides that a request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which the employee is missing provided that (i) an F.I.R. to this effect has been lodged with the police, (ii) the missing person is not traceable, and (iii) the competent authority feels that the case is genuine. In this connection, it is worthwhile to quote hereunder the contents of the letter dated 26.9.2006 of the Officer-in-Charge, Jarada Police Station addressed to the Inspector of Posts,

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Paralakhemundi:

"Ref: Letter No.B/G.D.S.N.C./Tumbagada B.O./dtd at PLK
26.9.2006

Sub: Regarding absconding of Umakanta Padhy, S/o.
Suryanarayan Padhy (GDSM.C.) of Tumbagada, P.S.
- Jarada, Dist-Ganjam

With reference to the subject and letter cited above, I am to inform you that one Umakanta Padhy, aged about 42 years, S/o. Suryanarayan Padhy of Saradhapur under Tumbagada, P.S. - Jarada, Dist-Ganjam was involved in Jarada P.S. Case No.79 dated 11.9.99 U/s. 448/354 I.P.C. and C.S. was submitted against him showing him as an absconder vide C.S.No.89 dt. 8.12.99 U/s. 448/354 I/O.C. and till date his present whereabouts is not known".

Sd/

Officer-in-Charge
Jarada Police Station"

6. Having regard to the above, we are of the view that the requirement of the first provision of Sub-clause (a) of Clause 11 of the scheme for compassionate appointment is yet to be complied with by the applicants. In other words, the applicant No.1 has not yet furnished to the Respondent-Department copy of FIR lodged with the Police to the effect that her husband is missing. The certificate or the letter of the Officer-in-Charge of Jarada Police Station is in connection with the criminal case wherein the applicant No.1's husband has been described to have been absconding or missing. But the fact remains, as on date there has been no FIR lodged by the applicants before the Police that Shri U.K.Padhi, the husband of applicant No.1 and father of applicant No.2 is missing, which is the object of the scheme for extending compassionate appointment.

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on 18/1/2009

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7. This being the situation, the requirement of the scheme for compassionate appointment having not been complied with in letter and spirit by the applicants, we hold that the applicants have not been able to establish a *prima facie* case for admission before this Tribunal.

8. In the result, the O.A. is rejected.

[Signature]
(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

K. Thankappan
(K.THANKAPPAN)
JUDICIAL MEMBER