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O.A. No. 59 of 2009

Order dated: 11.03.2009

CORAM:

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

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

We have heard Mr. P.K. Panda, Ld. Counsel for the applicant.

2. The applicant is the son of a deceased Govt. employee, who was working as a Postman in the Head Post Office of Chatrapur. The father of the applicant died on 5.6.2000. After the death of the father, the applicant as well as his mother had applied for compassionate appointment to the applicant with all required documents and other particulars, which ~~were~~ wanted by the Department as per the instructions or the order being followed by the Department. However, as per Annexure-A/3 and A/4 dated 17.5.2005 and 15.5.2006 respectively, the Sr. Superintendent of Post Officers, Berhampur Division had replied to the applicant that there is dearth of vacancy to accommodate him under the limited quota of 5% of compassionate appointment, as per the orders. The Department was not in a position to give any appointment to him. On receipt of the above orders, the applicant kept quit<sup>e</sup> for some time. However, as per

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Annexure-A/5 by the applicant and A/7 by the mother of the applicant, again rem<sup>2</sup>anded the matter to the Department seeking the employment assistance under the scheme. Since there is no favourable reply received by the applicant, this present O.A. is filed.

3. We have gone through the entire averments averred in the O.A. and the documents produced along with the application. We have also perused the reasons stated in Annexure A/3 and A/4 by Department for not giving the appointment to the applicant as per the scheme. However, it is to be noted that since the applicant and his mother had already rem<sup>1 2</sup>anded as per Annexure-A/6 and A/7 and as per the direction issued by Department of Personnel and Training, it is the duty of the Department to consider the case of the applicant at least for three times of the receipt of such required application and that apart, the applicant should be considered within the prescribed reserved quota and shall accommodate the applicant as per the rules. But it is seen, as per the reasons stated in Annexure-A/3 and A/4, that there is dearth of vacancy to accommodate the applicant under the rehabilitation scheme. Hence, we are not inclined to quash Annexure-A/3 and A/4, at this stage. It is also noted that

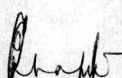
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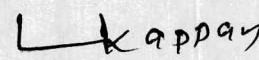
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even though in Annexure-A/3 it is stated that applicant has not qualified to be appointed at the vacancy in which he wanted to be posted. However, it is not proper for the Department to say that he is not qualified. He wanted only employment assistance in the lowest qualification, which the applicant has, as per the Ld. Counsel for the applicant. However, we are not touching that question at this stage. Apart from this, we have noted that either in Annexure-A/6 or in A/7, neither the applicant nor his mother has got any averment to show that there was vacancy existed in the Department to accommodate him. But, that is also the look out of the Department.

4. In the above circumstances, we dispose of this O.A. with direction to the Sr. Superintended of Post Officer, Berhampur Division, Berhampur, the 4<sup>th</sup> Respondent to consider the case afresh untrammelled by the reasons stated by Annexures-A/3 and A/4 and final decision in the matter shall <sup>be</sup> taken within three months from the date of receipt of a copy of this order. No costs

  
MEMBER (A)

  
MEMBER (J)