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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 quiet 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 ~~reminded~~⁸ 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
AnnexureA/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 ~~reminded~~^{1 2} 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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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. Superintendent of Post Officer, Berhampur Division, Berhampur, the 4th 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 ^{be} taken within three months from the date of receipt of a copy of this order. No costs

Chandu
~~MEMBER (A)~~

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MEMBER(J)