

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 13012 of 2018

Abdul Kadir Alli

.....

Petitioner

Mr. Sk. Zafarulla, Advocate

Vs.

Union of India & Ors.

.....

Opposite Parties

Mr. S. B. Panda, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

02.08.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Sk. Zafarulla, learned counsel appearing for the Petitioner and Mr. S.B. Panda, learned Central Government Counsel appearing for the Opposite Parties.

3. The Petitioner has filed this Writ Petition seeking to quash the Order dated 07.05.2018 passed by the Central Administrative Tribunal, Cutack Bench, Cuttack in O.A. No.260/670 of 2017 and to issue direction to the Opposite Parties to consider the case of the Petitioner for his compassionate appointment.

4. Sk. Zafarulla, learned counsel appearing for the Petitioner contended that earlier the Petitioner, seeking compassionate appointment, had approached the Tribunal by filing O.A. No.260/00860 of 2014, which was disposed of vide order dated 07.04.2017 with the following observation:

“.... I find that the only reason of rejection of his candidature was that ‘applicant was major and over aged at

the time of making application'. I failed to understand how applicant was found unsuitable for assessment because he was a major. With regard to the comment that he was over aged, the respondents should have pointed out provisions of the scheme and under which rule, such conclusion was arrived at by them and why they even did not think it appropriate to place the matter before the committee".

5. When the matter was directed to be considered, the Authority has considered the case of the Petitioner in compliance of the Order dated 07.04.2017 passed by the Tribunal in O.A. No.260/00860 of 2014 and passed the Order dated 19.09.2017 to the following effect:

"Whereas it is stat⁴ed that as per DOP&T guidelines issued from time to time, the applications received from the dependents of the employee are considered against 5% of direct recruitment vacancies for making compassionate appointment.

Whereas there is no regular vacancy for the post of Lighthouse Attendant for which his candidature could be considered even after relaxing of criteria.

AND, NOW THEREFORE, in view of the facts stated above the request of the applicant has been considered but cannot be acceded."

6. Being aggrieved by the said Order, the Petitioner approached the Tribunal by filing O.A. No.260/670 of 2017 and the Tribunal, vide Order dated 07.05.2018 observed that *"The Respondents have stated in the impugned order that there is no regular vacancy for the post of Lighthouse Attendant and the compassionate appointment has to be considered against 5% direct recruitment vacancies. In such premises, the request of the applicant could not be acceded to"*. By so observing, the Tribunal directed the Authority concerned to consider the case of the Petitioner once again, if vacancy arises in future in accordance with the departmental norms and guidelines.

7. Sk. Zafarulla, learned counsel appearing for the Petitioner

contended that the Petitioner has received information under RTI Act on 02.05.2018, wherein it is stated that 146 posts of Lighthouse Attendant are available till 2018. Therefore, non-consideration of the case of the Petitioner cannot be sustained in the eye of law.

8. In that view of the matter, this Court does not find any error in the Order dated 07.05.2018 passed by the Tribunal in O.A. No. O.A. No.260/670 of 2017 so as to warrant interference of this Court. Accordingly, this Court directs the Opposite Parties to consider the case of the Petitioner against the vacancies available in future in accordance with the departmental norms and guidelines.

9. With the above observation & direction, the Writ Petition stands disposed of.

10. Issue urgent certified copy as per Rules.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Alok/Ananta