

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) X taken on order
2.	15.11.1996.	<p align="center"><u>O.A.No.814 of 1996.</u></p> <p>Heard Sri D.P.Dhalsamant, counsel for the applicant and Sri Ashok Mohanty, Senior Standing Counsel for the respondents. In this application filed under Section 19 of the A.T.Act the applicant prays for a direction to the respondents to appoint him as ED BPM Mallgaon without resorting to any further process of selection. The post of EDEPM, Mallagaon in the account with Gop S.O. which fell vacant on 24.7.95 on the death of the permanent incumbent Bansidhar Sahoo as. The applicant has been working as EDDA in this office since 17.3.1992. On the death of the permanent incumbent he has been made in charge of EDMP on 24.7.95. He submitted his application directly for consideration of his candidature to the post of EDEPM. Ignoring this, Respondent No.2 issued the notification dated 30.10.96 annexed as Annexure-1 to the Original Application inviting applications for the said post which should reach him on or before 21.11.96. Learned counsel for the applicant has cited a decision in OA No.494/89 decided on January 29, 1990 in the case of Brajamohan Mohapatra v. Union of India and others. In that case the Employment Exchange Officer was requested to sponsor names of eligible candidates, but the applicant's name was not sponsored by the Employment Exchange office. Out of the five candidates whose names were sponsored, only one candidate applied for the post; but his application was not considered as he failed to fulfil the conditions.</p>	

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2 dt.15.11.96 continued.		<p style="text-align: center;">- 2 -</p> <p>The applicant remained as the lone candidate and therefore, fresh set of applications were invited through local notice. Here again on a second attempt, no one else except the applicant applied for the post. A third notification was issued again. In the third round, one Sri Surendranath Mishra was selected. It is thus the third selection that was challenged before this Bench in OA No.494/89. In this background the observations at page-6 of the order referred to by Sri Dhalsamant have been made.</p> <p>2. Coming to the present case, it is very clear by a series of decisions of the apex Court that a Court cannot direct an appointment to an individual thereby setting at naught the selection process. Therefore, it is not possible to give a direction to the respondents to select the applicant as prayed for by him. In this connection, it is relevant to refer to the instructions brought to my notice by the learned Senior Standing Counsel at page 82 of Swamy's Compilation of Service Rules for Extra-Departmental Staff in Postal Department vide PMG., Kerala Circle No.STA/102/6-VI/78 dated 7th November,1978. The instructions are that the working ED Agents should be given priority over all other categories except the retrenched ED Agents for selection to various ED posts if they satisfy all the conditions prescribed. The conditions are also stipulated in the instructions. This O.A. can be disposed of by giving a direction to</p>	

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2 dt.15.11.96 continued.		<p style="text-align: center;">- 3 -</p> <p>respondent No.2, Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar.</p> <p>3. Respondent No.2 Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar shall consider the application of the applicant for the selection to the post of E.D.B.P.M., Mallagaon EDBO in the account of Gop S.O. pursuant to their notification No. A-199/PF dt.30.10.96. While considering, the authorities shall give due weightage to the experience of the applicant as EDDA and ED BPM. If rules permit, due consideration shall also be given to his qualification as a Graduate. With these observations, the O.A. is disposed of.</p> <p style="text-align: right;"> <i>K. N. Sahu</i> (N.Sahu) Member (Administrative). </p>	<p>Free copy of the order dt.15.11.96 may be given to Mr. D.P. Dhalas- gama, Adv. & to Mr. Ashok Mohanty, Sr. Secy & sent to all respondents by regd. post with OA copies.</p> <p style="text-align: right;"> <i>21/11</i> <i>21.11.96</i> </p>

DJ.

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