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CA-27799

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

for hearing

12/12

Bench

for hearing

12/2/01

Bench

17. 13.12.2000

Lawyers have abstained from Court work.
Adjourned to 02.02.2001.

V. J. M.
13/12
vice-chairman
Member (J).

18. 2.2.2001

Learned counsel for the petitioner and his Associates are absent. No request has there been made on their behalf seeking adjournment. In this 1999 matter pleadings have been completed long ago. It is, therefore, not possible to drag on the matter indefinitely. We have, therefore, heard Shri Ashok Mohanty, learned senior counsel appearing for the Respondents and also perused the records.

In this Application the petitioner has prayed for direction to Respondents to appoint him to the post of U.D.C. in Kendriya Vidyalaya Sangathan. Respondents have filed their counter opposing the prayer of the applicant and applicant has also filed rejoinder.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. It is only necessary to note that admittedly for filling up of the post of UDCs in K.V.S. a written test and viva voce were held and according to petitioner himself five candidates were selected and put in the main panel in order of merit and another three candidates including the applicant were kept in the reserved category. Applicant has stated that after appointment order was issued to the five candidates, who were kept in the main panel, candidate No.5 Shri Raghunath Pradhan did not join the post and consequently the same post remained unfilled. Secondly another candidate viz., Shri Ashok Kumar Panda, who was against Sl. No.2 in the main panel joined the post and after serving for about five months, he resigned. The case of the applicant is that since two vacancies have arisen, he should be given

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appointment against one of the two vacancies.

Respondents in their counter opposing the prayer of the applicant have stated that out of five vacancies, four posts were meant for candidates belonging to general category and one for Scheduled Caste. They have further mentioned that a panel of five candidates was drawn up consisting of four candidates belonging to general category and one Scheduled Caste. It is further mentioned that a reserve panel of three candidates was also drawn up as has been mentioned by the applicant. This reserved panel consisted of one Shri C.R.Sethy, belonging to Scheduled Caste and one Shri S.C.Behuria and after Shri Behuria, the present applicant Shri Sudarsan Patnaik. Respondents have opposed the prayer of the applicant by stating that vacancy arising out of resignation of Shri A.K.Panda after having worked for about five months cannot be taken to one of the vacancies and the panel has already been exhausted.

It is not necessary for us to form an opinion on the above submissions of the learned senior counsel for the Respondents, who, in course of his submission filed a decision of the Hon'ble High Court in O.J.C. No.1826/2000 dealing with the same appointment and the same panel consisting of five candidates and a reserve panel consisting of three candidates including the applicant. From the decision of their Lordships in disposing of the said O.J.C. on 14.11.2000, we find that in that O.J.C. the person who was Number 1 amongst the general category candidate in the reserved panel consisting of three candidates, i.e. Shri S.C.Behuria approached the Hon'ble High Court for getting appointed against resultant vacancy, for which the petitioner has approached this Tribunal in the present O.A. The Hon'ble High Court, for the reasons recorded in their order dated 14.11.2000 in O.J.C. No.1826/2000, rejected the claim of Shri Behuria for getting appointed to the post of U.D.C. It is not disputed that in the reserved panel the name of the present applicant Shri S.Patnaik finds mention below Shri Behuria. Therefore, in case any vacancy is required to be filled up from the reserved panel Shri Behuria will naturally have a better claim over the present

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applicant for getting appointed to that post, who is just below Shri C.R.Sathy, a candidate belonging to reserved category.

As stated earlier, the claim of Shri Behuria has been rejected by the Hon'ble High Court in the above said O.J.C. In this view of the matter, the present petitioner being placed against Sl. No.2 in the reserved panel of general category candidate cannot be entitled to get appointment against the post of U.D.C., especially when a similar prayer made by Shri S.C.Behuria, being placed at Sl. No.1 in the reserved panel of general category candidates has been rejected by the Hon'ble High Court in O.J.C. No.1826/2000.

In the result, we hold that the applicant has not been able to make out a case for any of the reliefs prayed for. The O.A. is, therefore, held to be without any merit and the same is rejected, but without any order as to costs.

S. J.
MEMBER (JUDICIAL)

Somnath Singh
VICE-CHAIRMAN
2.2.2001

Free copies of
final order
dt. 2.2.2001 given
to both sides.

Amr
S.C.D.

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7/2/01