

Order dated 12.11.2003

Heard Mr. B. Rout, Ld. Counsel for the applicant, Mr. P.K. Pdhi Ld. Counsel for the Respondent No.4 and Mr. S. Behera, Ld. Addl. Standing Counsel and perused the materials placed on record.

The applicant in this O.A. under Section 19 of A.T. Act 1985 has made the following prayer:

- (i) Respondent No.2 be directed to appoint the applicant as EDDA of Kukudakhandi, S.O., and
- (ii) appointment of Respondent No.4 in the post be quashed.

The Respondents have contested this O.A. on several grounds, inter alia questioning the maintainability of this O.A., being grossly barred by limitation. The selection for the post of EDDA took place in May 1996 where as this O.A. has been filed in June 1999. The Respondents have repeatedly stated that the said selection which took place in May 1996 cannot be challenged by the applicant in the year 1999. That apart on merit of the case it has been disclosed by the Respondents Department that the post in question was advertised as reserved for SC community; failing which it was to be filled by ST and failing which by OBC. It is the case of the Respondents Department that the selection was made out of the most meritorious candidate belonging to SC

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community, who had applied for the post. On the other hand, the applicant belonged to OC and therefore, he was not eligible for consideration for appointment against the said post. For all these reasons they have submitted that this OA being devoid of merit is also liable to be rejected.

The applicant had challenged the appointment of Respondent No.4 on the ground that he was the most meritorious among the 16 candidates considered by the Respondents. It is his case that there were only 3 candidates who had passed HSC and rest had only educational qualification up to Class IX. Among the HSC pass candidates the applicant had secured the highest marks. In the circumstances he could not have been denied the job by the Respondents. The Respondents, on the other hand, have stated that the applicant could not be selected as they had taken a decision to fill up the post by an SC candidate to make good the shortfall. As the applicant was not a candidate belonging to S.C community he could not have been selected. We broadly agree with the submission of the Respondents they had clearly notified that the post of EDDA was reserved for SC community both in their notification of the vacancy to the employment exchange and as well as in the public notification. We are satisfied that before the selection was made in August 1996 Respondent No.2 by his letter dated 5.10.1995 had

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directed Respondent No.3 to make good the shortfall in representation of SC community in the recruitment division that he would take place in future. We also find that the selection to the post in question made by Respondent No.3 was reviewed by Respondent No.2 in July 1996, on receipt of an allegation against the said selection and appointment after thorough review of the matter, Respondent No.4 was appointed. In view of the above facts of the case, we see no merit in the O.A. which is accordingly rejected. No costs.

*[Signature]*  
Vice-Chairman 12/11/03

*[Signature]*  
Member (J)  
12/11/03

*Copies of award  
may be sent to  
the court for record*

*[Signature]*  
20.11.03

*S.O.S.*

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