

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
Rejoinder not filed.	<u>Order dated 23.2.2001</u>
22/1/01	Heard Shri S.K.Pattnaik, learned counsel for the petitioner and Shri S.B.Jena, learned Addl. Standing Counsel for the respondents and also perused the records.
for hearing	In this O.A. the petitioner has prayed that the vacant post of Driver under Chief General Manager, Telecommunications (Res.2) be directed to be filled up by a process of selection confining to Drivers engaged on daily wage basis and by allowing the applicant a chance to compete with others in such selection without calling for names from the Employment Exchange, open market or from any other source.
22/2/01	Respondents have filed their counter. Applicant has not filed any rejoinder.
for hearing	The case of the applicant is that he was engaged to drive departmental vehicle under Res.2 from 15.5.1996 upto February/98, except for the months of July and December, 1996 and January and April, 1997. After February, 1998 he was allowed to drive the vehicle for a few days in a month as and when required till February, 99. Applicant has marked annexed as Annexure-1, a date chart showing the particulars of his engagement. He has stated that while working on daily wage basis he was allowed to maintain the log book. He has also enclosed a sample copy of the log book. It is further stated that 30 additional posts of motor driver were sanctioned, but no regular appointment was given to him and others who were utilised to drive the vehicles at the time of need. He filed a series of representations which are at Annexure-7 series, but without any result. Applicant has stated that he has been informed by the concerned officer of the Office of the Res.2 that those posts will be filled up by keeping the selection confined only to such daily wage drivers who have obtained orders from the Tribunal for consideration of their cases. In the context of the above the applicant has come up in this O.A. with the prayer referred to above.
22/2/01	Respondents in their counter have stated

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(Para-2) that the applicant will be called to appear at the interview as also in the test to adjudicate his suitability for the post of driver as and when the same are held. They have further stated that the working particular enclosed by the applicant himself vide Annexure-1 shows that he was not in continuous engagement and his engagement was on contract basis as a stop-gap-arrangement to drive the vehicle as and when necessary. It is further stated that the Department of Telecommunications in order dated 12.8.1999 at Annexure-1 has permitted recruitment in the cadre of Driver from the open market and as and when process of recruitment is taken place his candidature will be considered. As the respondents have already averred that applicant's candidature will be considered, the only point needs determination is whether the selection would be confined to daily wage drivers only or along with the daily wage drivers fresh candidates from open market would be called to the test.

Law is well settled that in a regular post must be filled up in accordance with the recruitment rules. In this view of the matter this O.A. is disposed of with a direction to respondents that when they fill up the post of driver, number of which has been mentioned as 30 by the applicant and 18 by the respondents, as per Annexure-R/2, they should follow the recruitment rules strictly and in that process they should consider the candidature of the applicant by giving him relaxation of age as also relaxation from the requirement from getting his name sponsored by the employment exchange.

Shri Jena, the learned Addl. Standing Counsel in course of argument produced decision dated 28.10.1999 of this Tribunal disposing of the identical O.A. Nos. 393, 396 and 397/98 and we have taken note of the same.

The O.A. is disposed of as above, but without any order as to costs.

MEMBER (JUDICIAL)

Somnath Jena
VICE-CHAIRMAN
23.3.2001

Records received
today i.e 7.3.2001

Free copies of
final order
dt. 23.2.2001
issued to counsels
for both sides.

PL
SO (C)

23/3/01