

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

18. 20.07.01

At the request made on behalf of Mr. J.K. Nayak, learned A.S.C. matter is adjourned to 25.07.01.

J. S. Jam
Vice-Chairman
20/7.
Member (J.)

19. 25.07.01

At the request of learned counsel for the petitioner matter is adjourned to 08.08.01.

J. S. Jam,
Vice-Chairman
25/7.
Member (J.)

20. Order dated 8.8.2001

Heard Shri B.S.Tripathy, learned counsel for the petitioner, Shri S.J.Nanda, learned counsel for Res.4 and Shri J.K.Nayak, learned A.S.C. for the departmental respondents and perused the records.

In this O.A. the petitioner has prayed for quashing the selection and appointment of Res.4 to the post of E.D.M.C./Packer in Nima Sahi S.O. and to allow him to continue in the above said post. Departmental respondents have filed their counter opposing the prayer of the applicant. Res.No.4 has appeared through his counsel but has not filed any counter. Shri Nanda submits that he would adopt the counter filed by the departmental respondents.

The admitted fact of this case is that applicant was working as Waterman in Nayabazar Post Office from 1.2.1993 to 31.5.1998. Departmental respondents have stated that from 1.6.1998 the

J. S. Jam.

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applicant had not worked. It is further stated that one Sadhan Chatterjee was working as EDMC/Packer in Nima Sahi S.O. and he was promoted to the cadre of Postman. He applied for three months leave w.e.f. 24.6.1996 providing the applicant as his substitute and the applicant therefore, worked as substitute of regular E.D.M.C./Packer in Nima Sahi Post Office for three months from 24.6.1996. On 22.9.1996, the regular incumbent changed the substitute and provided another substitute in place of the applicant and thereafter the applicant has not worked as substitute in the post of EDMC/Packer, Nimasahi S.O. Departmental respondents have stated that for filling up of the post of EDMC/Packer, Nimasahi S.O. the case of the applicant was considered along with others, but as the applicant has failed H.S.C., Respondent No.4, who got 52.05% marks in the Matriculation was adjudged the most meritorious amongst the eligible candidates and was ultimately selected. It is submitted by the learned counsel for the petitioner that he does not press his prayer for quashing the selection and appointment of Res.4 to the post of EDMC/Packer, Nimasahi S.O. It is submitted by the learned counsel that the applicant has worked as Waterman for more than five years in Nayabazar S.O. w.e.f. 1.2.1993 to 31.5.1998 and he should be considered for appointment ~~and he should be considered for appointment~~ in some other ED Post, according to his qualification, if applied by him, within the Division, where according to applicant, there are many vacancies existing. The learned counsel for the petitioner has drawn our attention to the circular of D.G.Posts dated 6.6.1988, in which it has been observed by the D.G.(P&T) that casual labourers/part-time casual labourers are entitled to be considered for appointment to regular Group D posts in the Department, but as they occupy the lowest priority amongst the four categories mentioned in the circular ~~and there being large number of E.D. employees who~~ are also entitled to be considered for appointment to Group D posts and as E.D. Employees have higher priority over casual workers/part-time casual workers, the latter hardly get a chance to be considered ~~for appointment~~ ^{against} the Group D posts in the Department. In consideration

JSCM

of this, it has been directed by the D.G. (P&T) that casual labourers whether full-time/part-time, who are willing to be appointed to E.D.Vacancies may be given preference in the matter of recruitment, provided that they fulfil all the qualifications and eligibility and put in minimum service of one year, meaning thereby 240 days in a year. There is also a condition about the initial appointment through the Employment Exchange. As in the above circular there is a provision for considering part-time casual labourers for appointment to the post of E.D. vacancies, we dispose of this O.A. with a direction to respondents that in case the petitioner applies for any E.D.Post in response to any advertisement and in case he has the qualifications for the post and he is otherwise eligible to be considered in terms of the circular of the D.G. (P&T), dated 6.8.1988, then his case should be considered in terms of that circular. No costs.

MEMBER (JUDICIAL)

S. M. J. M.
VICE-CHAIRMAN
8/8/2001

Free copies of
final order
4.8.8.2001 issued
to counsel for
both sides.

No
9/8/01 Sidney. P&VC.
T. P. D.
8.8.01