

NOTES OF THE REGISTRY

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11. 28.11.2000

Copy of counter has been served on 13.09.2000. Rejoinder has not been filed yet. No further time can be granted. Pleadings are taken to be complete. Adjourned to 18.12.2000, for hearing and final disposal at the stage of admission.

For admission

Bench

18/12

Vice-Chairman
28/11/2000

Member (J)

12. 18.12.2000

Lawyers have abstained from Court work. Adjourned to 18.01.2001.

For admission

Bench

Not

Vice-Chairman
18/12

Member (J)

Order no.13, dated 18.1.2001

Advocates of both sides are absent. Advocates have been abstaining from attending court since 7.12.2000 raising protest against recent imposition of professional tax by the State Government. Even on the last date, on account of their absence, the case has been adjourned to this day for hearing and final disposal at the stage of admission. Since this abstention from court work has become an indefinite affair, we are not inclined to further adjourn the matter in anticipation of appearance of the advocates in near future, moreso in view of the observation of the Hon'ble Supreme Court

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in the case of Ramon Services Pvt.Ltd. v. Subhash Kapoor and others, 2000 AIRSCW 4093, that adjournment of cases by courts or tribunals, whenever there is boycott called from the advocates, would amount to contempt of the Apex Court. Parties are also absent. Hence perused the records.

2. Applicant and respondent no.4 Alok Kumar Pradhan along with two others were candidates for selection to the post of EDBPM, Barasahi in account with Sarankul S.O. in Nayagarh District. Ultimately, respondent no.4 was selected and appointed. This application is for quashing the selection and appointment of respondent no.4 and for issuing a direction to the Department to consider the case of the applicant by giving him appointment to that post.

3. In the notification dated 16.4.1999 (Annexure-1) inviting applications, it has been mentioned that preference would be given to ST/SC community in descending order subject to fulfilment of other basic conditions for the post and subject to receipt of minimum three applications from that community. The applicant no doubt belongs to SC community. Since three applications from SC community have not been received and the applicant being the sole SC candidate for the selection, this clause of preference cannot be taken advantage of by the applicant, as has been averred in the counter filed by the Department. Further, the Department's case is that respondent no.4 though belonged to OC community, had secured higher percentage of marks in the HSC Examination than the applicant. The applicant also did not furnish

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income certificate and solvency certificate within the last date for receipt of applications, as stipulated under Clause 7 of Annexure-1.

4. No rejoinder has been filed by the applicant.

5. It is clear from check-sheet at no.4 Annexure-R/1 that while respondent/secured 339 marks out of 750 marks, the applicant secured only 303 out of 750 marks in HSC Examination. In other words, respondent no.4 having secured higher percentage of marks is more meritorious than the applicant. Further, as required under Annexure-1, neither the income certificate nor the solevency certificate was submitted by the applicant whereas respondent no.4 fulfilled all these conditions. We, therefore, see no illegality in the selection and appointment of respondent no.4.

6. In the result, there is no merit in the Original Application which is dismissed. No costs.

Somnath Som
(SOMNATH SOM)
18/1/2001
VICE-CHAIRMAN

G. Narastham
(G. NARASTHAM)

MEMBER (JUDICIAL)

free copies of
final order
dt. 18-1-2001 given
to both sides.

Vas
24-1-01

Amul
S.O(T)