

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Dt. 10.8.2000

The Advocates have refrained from Court work. No steps have been taken for filing of rejoinder. Posted to 28.8.2000.

ABT/200
REGISTRAR

Rejoinder
not filed.

pkj R. 25/8

Dt. 28.8.2000

The learned counsel for applicant submits that it may go to Bench without rejoinder. Pleadings completed. Put up to Bench for further orders.

REGISTRAR

Pleadings complete
for further order

Bm

34/5

Order dated 19.1.2001

This case stands posted to this day for hearing and final ~~disposal~~ at the stage of admission. Advocates for both sides are absent. In fact Advocates have been abstaining from attending Court works since 7.12.2000 raising protest against recent imposition of Professional Tax by the State Government. However, we are not inclined to adjourn this case in view of ruling of the Apex Court in the case of Raymon Services (P) Ltd. vs. Subhash Kapoor reported in 2000 AIRSCW 4093 where the Apex Court have deprecated the practice of adjourning cases when there is boycott call by the Advocates. Even the Apex Court have observed that by adjourning cases under such circumstances the defaulting Courts will be contributory to contempt of the Apex Court.

Parties are also absent. Hence perused the records.

The facts of the case are that applicant and Respondent No.4, Shyamaghana Pradhas were candidates for the post of E.D.D.A. of Jaganathpur Branch Office. Respondent No.4 Shri Pradhan was ultimately selected and appointed to that post. The applicant prays for quashing his selection and appointment of Res.4 to that post and consequently for issue of direction to respondents to appoint him to that post, on the ground that he has secured higher percentage of marks than Respondent No.4 in the H.S.C. Examination and that Respondent No.4 had not filed his income certificate. Further it is the case of the applicant that though the post was notified to be reserved for S.T. Candidate, such reservation could not have been made as it is a single post.

Respondent No.4 though duly noticed had neither entered appearance nor filed any counter. The Departmental respondents in their counter justified the selection and appointment of Respondent No.4 on the ground that out of three S.T. candidates applied for the post, Respondent No.4, who is a S.T. candidate had secured the highest percentage of marks in the H.S.C. Examination. Further, as per D.G. Posts circular dated 26.5.1995, in case of candidates seeking appointment to categories other than

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<p>for admission 22/11/99</p> <p>for Admission 13/11/99</p> <p>Free copies of form O.A. 481/99 given to both sides.</p> <p>12/11/99</p>	<p>EDBPM/SPM, a declaration can be obtained about reservation the private income and the Respondent No.4 having fulfilled that criteria his selection to the post in question cannot be said to be bad for non filing of income certificate. This post is not a single cadre post in order to attract the rule of reservation.</p> <p>No rejoinder has been filed.</p> <p>As per the law laid down by the Apex Court reservation is not applicable in case of a single cadre post. The post in question is not a single cadre post as it is one among several such posts from the concerned postal Unit as pleaded in the counter and not denied through any rejoinder.</p> <p>Annexure-1, the notification inviting applications is clear that the post reserved for S.T. community and in case minimum three eligible candidates belonging to S.T. community did not offer their candidature then the vacancy would be treated as unreserved and offered to the candidates belonging to unreserved community. Since three S.T. candidates applied for the post and Res.4 had secured the highest percentage of marks in the Matriculation amongst those three we do not see any illegal infirmity in selecting and appointing Res.4 even though the applicant secured higher percentage of marks than Res. 4 in the H.S.C. Examination.</p> <p>As to the income certificate the D.C. Circular of the year 26.5.1995, xerox copy of which is at Annexure-R/4 is clear that in case of selection of E.D.D.A., a simple declaration from the concerned candidate as to his private income will be enough. Hence, selection and appointment of Res.4 cannot be bad for non filing of the income certificate.</p> <p>In the result, we do not see any merit in this O.A., which is accordingly dismissed, but without any order as to costs.</p> <p>VICE-CHAIRMAN</p>
	<p>MEMBER (JUDICIAL)</p>