

NOTES OF THE REGISTRY

D1-2008-2000

The learned applicant
counsel preys for time
to file rejoinder. Sufficient
time was given earlier.
Last chance is over.
Prayer rejected.
Put up before Bench for
further orders.

REGISTRAR

For further orders
at Counter.

10/11/2008

Counter nof
servd. *27/11/2008*
Bench

Rejoinder not filed

12/11/2008 Bench

Rejoinder not filed

12/11/2008 Bench

Rejoinder not filed

12/11/2008 Bench

ORDERS OF THE TRIBUNAL

Order dated 17.11.2003

The applicant, in this O.A. is a candidate, who had applied for the post of Group D staff in the Respondents-Department. He wrote the entrance examination and after qualifying in the said examination, he was called for the viva voce. It is stated that he was successful in the viva voce test also. Thereafter the applicant was called along with others for a physical test. It is the case of the applicant that he was asked to cover a distance of 50 mtrs. carrying 50 kgs. of sand-bag in 30 seconds and in the same manner carrying 50 kgs. of iron though he could successfully cover the distance, he could not cover the distance carrying the sand bag as it was found to be wet due to rains on that day. Therefore, it is his case that he should be given another chance for the physical test before the results are announced.

The Respondents have filed a detailed reply. It is admitted that the applicant was one of the candidates, who appeared for selection for Group-D post. Admittedly the applicant qualified in the written examination and viva voce and therefore, he was called for physical test. The contention of the applicant that the sand bag was wet and therefore, he was unable to cover the distance within the prescribed time has been rebutted vide Para-6 of the reply. It is stated specifically that two sheds were structured in both ends of the field to keep the sand bags in safe condition during the rain and also to prevent those from getting wet. According to Respondents, it is a clear and simple case of the applicant that not being able to

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successfully complete physical test.

The learned counsel for the applicant submitted that the applicant's case deserves to be re-examined and he be called for a fresh test.

Though the Respondents replied in February, 2000, as of now, no rejoinder has been filed. Therefore, it stands to reason to come to a conclusion that the averments in the counter filed by the Respondents truly reflect the grounds realities. Viewed in this situation, the statement made by the applicant that due to ~~in session~~ ^{cessant} rain, sand bags were ~~wet~~ and therefore, he could not cover the distance and ~~therefore~~ became unsuccessful in the physical test does not seem to be true reflection of fact. This has clearly been rebutted in the reply filed by the Respondents and this is the only ground on which the applicant seems reconsideration of his case for selection. In view of the fact that this has been successfully rebutted, we do not think that the applicant has made out a case in his favour. Accordingly, this O.A. is found to be devoid of merit and the same is dismissed, leaving the parties to bear their own costs.

Sy Amnshu E.
17.11.03.
MEMBER (ADMINISTRATIVE)

Rehaz R. 17.11.03.
MEMBER (JUDICIAL)

(Other OA Order
on 17.11.03 may be
dealt with
separately
as per
order to the
Court for better
service)

1
20.11.03

D.M.
20.11.03
S.G.J.