

ORDER DATED 21-12-2001.

Heard Shri S.J.Nanda, Learned Counsel for the Applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the Respondents and have also perused the pleadings.

In this Original Application, the Applicant has prayed for a direction to the Respondents to consider the case of the petitioner for the post of EDMC by way of compassionate appointment by relaxing the minimum educational qualification and also to quash the notification under Annexure-4 through which applications have been invited for filling up of the post of EDMC-I, Badasilinga Branch Post Office.

Respondents have filed counter and applicant has filed rejoinder.

For the present purpose, it is not necessary to go into too many facts of this case. Admittedly, the applicant's father who was working as EDMC in Badasilinga Branch Post Office, passed away in harness on 16.11.1998 leaving behind the widow and six children of which the applicant is the eldest son. After the death of the father of applicant, according to the applicant he worked as EDMC from 1.1.1999 to 30.6.1999. Respondents in their counter have denied that the applicant had worked as EDMC from 1.1.1999 to 30.6.1999. They have on the contrary stated that the other EDMC of that BO was asked to take leave from his post and worked the post which fell vacant due to the death of the applicant's father. Accordingly,

S. J. Nanda

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EDMC-2, of Badasilinga EDBO, Shri P.K.Sahu, acted as EDMC-I i.e. the post held by the father of the Applicant from 1-12-1993 to 27-2-1999. Applicant has worked as substitute of Shri P.K.Sahu in the post of EDMC-II from 1-12-1998 to 30-6-1999. These averments of the Respondents regarding the actual dates of working of applicant as substitute / has not been denied by the applicant in his rejoinder. In view of this, we accept the averment made by the Respondents with regard to the days of working of applicant as substitute of P.K.Sahu, EDMC-2, in the manner noted by us earlier. The applicant's case was processed for compassionate appointment but before the Circle Relaxation Committee could take a view, the applicant had approached the Tribunal in this O.A. The other admitted aspect is that for the post of EDMC, the minimum educational qualification is class-VII pass whereas the applicant has passed class -VI. The Departmental instructions provide relaxation of educational qualification only in respect of widow or widower and not in respect of other dependents of the deceased employee. In view of this, we hold that the prayer of applicant for a direction to the Departmental Authorities to relax the educational qualification can not be considered by us at this stage, since the CRC has not take a decision in the matter. Departmental Respondents have stated in their counter that the widow of the deceased employee was asked to submit the income certificate, which has not been submitted. They have specifically mentioned that after submission of the Income certificate, the case will be considered by the CRC. Learned counsel for the applicant relies on the letter at Annexure-5 in which he was asked to give his willingness

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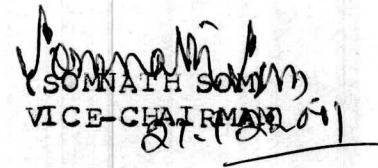
to work as EDMC. In this letter it has been mentioned that the **minimum** educational qualification for the EDMC is class-VIII pass. It is submitted by learned counsel for the applicant that inspite of the above requirement of the minimum educational qualification, applicant's willingness has been asked for. It must be taken that offer of appointment has been made and that too by relaxing the educational qualification. We are not prepared to accept the above contention because this letter has been issued prior to meeting of the CRC for the purpose of processing the papers and it is customary at this stage to get the willingness of the person concerned to work in the post. Annexure-5 is simple a letter obtaining willingness of applicant for being considered for the post of EDMC. This can not be, by any stretch of imagination, said to be an offer of appointment. As the Respondents have stated that the case of applicant will be considered by the CRC we dispose of this OA with a direction to the applicant that within a period of 30 days from the date of receipt of a copy of this order, he must furnish all necessary and wanting documents to the Departmental Authorities and within a period of four months thereafter, the CRC should take a view on the question of granting compassionate appointment to the applicant. We also make it clear that in case within the period mentioned above, the documents are not furnished by applicant, the CRC shall consider the candidature of applicant on the basis of the materials on record without giving any further time, within the time period fixed by us.

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with the above observations and directions, the
Original Application is disposed of. No costs.


(NITANANDA PRUSTY)
MEMBER(JUDICIAL)


SOMNATH SOM
VICE-CHAIRMAN
21.12.2001

KNM/CM.

Free copies of final
order dt. 21.12.2001
issued to counsel for
both sides.

26/12/01


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