

11. ORDER DATED 13-1-2001.

Being aggrieved with the selection of Gautam Bihari Dhal, EDBPM (Respondent No. 3) of Dantaribahal BO, the applicant has filed this O.A. for quashing the selection of Respondent No. 3 as EDBPM and for a direction to the Departmental Authorities to make fresh selection from amongst the sponsored candidates by the Employment Exchange.

2. Respondents have filed counter opposing the prayer of applicant.

3. Private Respondent No. 3 was issued with notice but he did not appear or filed counter.

4. No rejoinder has been filed.

5. Learned lawyers have abstained from court work for more than a month and there is no indication when they will be returning to court work. Going by the law laid down by the Hon'ble Supreme Court in the case of Raman Services Pvt. Ltd. vrs. Subash Kapur and others reported in 2000 AIR SCW 4093, the matter can not be adjourned on the ground of abstention from court work by learned lawyers as by such adjournment this court will be contributing contempt of Hon'ble Supreme Court. Petitioner is absent. There is no representation from the side of Respondents. We have, therefore, perused the records and considered the pleadings of the parties.

6. For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that for filling up of the post of EDBPM, Dantaribahal BO Departmental Authorities moved the Employment

Exchange and Employment Exchange sponsored names including that of applicant. Applicant has stated that Respondent No.4 EDMC at Balam who was working/ managing the work of EDBPM suppressed the letters issued by the Departmental Authorities to some of the candidates sponsored by the Employment Exchange to file detailed application for the post with necessary documentation. Applicant has stated that the letter meant for him was also suppressed and that is why he did not get the letter and did not apply. Departmental Respondents have denied this assertion and have stated that after getting the names from the employment exchange all candidates were addressed through Regd. Post to submit their applications. A letter to that effect was also sent to the applicant through Regd. Post with AD. Respondents' case is that this letter was duly received by applicant in token of which he has sent the AD xerox copy of which has been enclosed by the Respondents at Annexure-R/1(VII). We have seen this AD. This assertion of the Respondents and filing of xerox copy of AD purportedly signed by the applicant himself has not been denied by applicant by filing any rejoinder. In view of this it can not be accepted that the letter meant to the applicant was deliberately suppressed and that is why he could not apply. Applicant has enclosed at Annexure-1 copies of documents which are postal receipts of registration of letters including the letter purportedly issued to the applicant. As the assertion of applicant about receipt of letter by the applicant and his signature on the AD filed by the Respondents has not been

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denied, it is not possible to accept the contention of the applicant in this regard.

7. Amongst 12 candidates who applied, Respondent No.3 got higher percentage of marks and was selected on merits. Applicant has further stated that selected candidate respondent no.3 is a bad character and is involved in a serious CrI. case and facing CrI. trial under section 376 IPC. Departmental Respondents have denied this and have stated that on a reference to the officer incharge of Deogarh Police station it was specified that on verification of the police records no criminal record is available against the Respondent No.3. This report of the Police has been enclosed by the Departmental Respondents alongwith their counter and this report has also been countersigned by the Additional District Magistrate, Deogarh. In view of this this contention of the applicant is also held to be without any merit.

8. In the result, we hold that the Respondent No.3 has been rightly selected and appointed and the application of the petitioner is without any merit and the same is accordingly rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.

Somnath Singh
(SOMNATH SINGH)
VICE-CHAIRMAN

Free Copies of
final order
dt. 18.11.2001 issued
to counsel for
both sides. *KNM*

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26/3/01 *S.O.C.*

A free copy of order
dt. 18.11.01 sent to
Mr. S. Kumar Ase
on 14.12.01
31.10.03.

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