

Order dated 19.11.2003

Applicant, a candidate, who applied for the post of E.D.M.C. at Badarampas B.O. in response to a notification issued on 17.3.1999. It is stated that the applicants were originally invited from S.T. candidates and if no S.T. candidate was available, ~~the~~ candidates from other communities, like, OBC/SC/OC may also apply and they will also be considered. However, in the final selection the applicant was not selected and Res.4 was selected and appointed. Aggrieved by this selection the applicant has come before the Tribunal assailing <sup>said</sup> the selection process and seeks a direction to quash appointment made in favour of Res.No.4 and to conduct a fresh selection in accordance with Rules.

The Respondents-Department have filed a detailed reply. Admittedly, when the notification was issued on 15.2.1999, the Department could not get any applications from SC candidates. Thereafter, a 2nd notification was issued on 17.3.1999 in response to which 9 candidates applied. At this time also there was no ST candidate, but there was only one OBC candidate. Since there should be at least three candidates from a particular category for selection in accordance with the instructions issued by the D.G.Posts (Annexure-R/2) the 3rd Respondent sought clarification from the higher authorities. He was told that the vacancy may be filled up on open competition based on merit taking all the candidates applied for the post. Accordingly the merit list of the candidates, who had applied for the post on earlier two occasions

were prepared and it was noticed that Respondent 4 was found to be more meritorious than other candidates and he was, therefore appointed.

When the matter was called for disposal to-day, the Tribunal was informed by the learned counsel for the applicant, who had originally appeared in this case that the applicant had taken back the brief from him in order to engage another counsel and therefore, he has given his consent also. The learned counsel has therefore, requested that his name be deleted. However, the applicant has not appeared in person to represent his case nor has he engaged some other counsel. Since this is a matter relating to ~~the~~ year 1999, we do not think that we should give any further time to the applicant to represent this matter. It is also seen that the matter was already heard in detail during October, 2000 and later on it was released from the part-heard list. Therefore, in view of the ~~old~~ pendency of this application, we proceed to adjudicate the matter based on the records available ~~and~~ with the help of learned Addl. Standing Counsel, Shri S. Behera. We heard the matter in extenso.

It is on record that the Respondents-Department wanted to fill up the post of ~~EDM~~, Badarpur by a candidate belonging to ST community. But even at the very first notification issued by the Respondents it was indicated that if no ST candidate was available, candidate belonging to other categories would be considered. However, both the Respondents made an

attempt to invite applications from ST candidates. But there was no candidates from the community. Thereafter, after obtaining clarification from the higher authorities, the 2nd respondent completed the selection based on the merit of the candidates, who had applied for the post. As submitted by the Respondents, it is seen that Respondent No.4 who was selected and appointed was found to be more meritorious than the other candidates. Since selection and appointment to the post of E.D.M.C. is based on merit in the qualifying examination, we do not find anything wrong and therefore, there is no scope for any interference by the Tribunal at this stage.

Under these circumstances, we do not find any merit in the O.A. and accordingly, the same is dismissed. No costs.

Shyam Bhushan  
19.11.  
MEMBER (ADMINISTRATIVE)

Subrata Chakraborty  
19.11.2007  
MEMBER (JUDICIAL)

Column 12 (marked 19.11.07)  
may be deemed to  
be correct.  
bokha.

D.B.  
20.11.07  
S.C.J.

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20.11.07