

4

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Counter by  
R-4 not filed

Raj Bench  
18/11

Dt. 20.10.2000

The learned counsel  
for R-4 prays for time  
to file counter. Prayer  
allowed. Time granted  
till 13.11.2000 for counter  
as last chance.

20/10/2000  
REGISTRAR

Counter by R-4  
not filed.

ad till 13.11.2000

For and

10/11/2000  
Raj Bench  
Jdm

Counters filed by  
all respondents - Copy  
not served

21/11/01 Bench

Copy of counter  
not served.

18/11/01 Bench

For service of copy of  
counter.

21/12/01 Bench

8. ORDER DT. 9.2.2001.

Counsel for the applicant is absent.

No rejoinder to the counter of the  
Departmental respondents filed. Further time  
can not be allowed to file rejoinder.  
Counter filed by private Res.No.4 has not  
been served on the learned counsel for the  
petitioner. On the last occasion it was  
mentioned that as the learned counsel for the  
petitioner is not appearing and he is an  
outstation lawyer, counter could not be served  
on him. Today also he is absent. In view of  
this pleadings are taken to be complete. Adj.  
to 15.3.2001 for hearing and final disposal  
at the stage of admission.

Jdm  
Vice-Chairman  
9/2  
Member (Judl.)

9. ORDER DATED 15-3-2001.

This matter has been fixed today for  
hearing and final disposal at the stage of  
admission. At the mention time learned Additional  
Standing Counsel Shri B.K.Nayak wanted the  
matter to be taken up after lunch because of his  
commitment before other Court and the prayer was  
allowed. Subsequent to that on behalf of learned  
counsel for the applicant an adjournment was asked  
for. As the request was made on mention hour, in  
presence of learned ASC the prayer was rejected. When  
the matter was called after lunch, learned counsel  
for the applicant and his associates are absent. In  
view of this we have heard Shri P.K. Giri, learned  
Counsel for the Respondent No.4 and Shri B.K.Nayak,  
learned Additional Standing counsel for the

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## ORDERS OF THE TRIBUNAL

1. For reference of  
Copy of counter  
on petitioner's  
counsel

2. Copy of counter  
not served on  
Govt Counsel

23  
8/1/01

Beneh

Dr. No 8 may beneh

for him.

adJ to 15.3.2001.

14.3.2001,

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S. Nam.

Rules provide that any qualification above matriculation is to be ignored.

3. The second ground urged is that the applicant has worked for some years as a substitute. It has been submitted by learned counsel for the Respondent No. 4 that Respondent No. 4 has also worked for longer years as substitute. This aspect is also not relevant for the present purpose because law is well settled that experience as substitute can not be taken ~~into~~ consideration for the purpose of selection for regular appointment. This is because if such experience is taken into consideration then it would always be open for the regular incumbent to go on leave providing one of his relations as substitute and thereby giving him an undue advantage in the matter of selection alongwith fresh candidates. In view of the above, we hold that experience as substitute can not be considered for the purpose of selection.

5. The third ground urged by the applicant is that in selecting Respondent No. 4 to the post favouritism has been shown because Respondent No. 4 is working as domestic servant of Respondent No. 3 i.e. Assistant Superintendent of Post Offices, Puri. This has been very strongly denied by Respondent No. 4 in his counter as also by the learned counsel for Respondent No. 4 in course of his submission. Departmental Respondents have also denied that Respondent No. 4 is working as a domestic servant of Respondent No. 3. In view of the above, this contention is also rejected.

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Departmental Respondents and have perused the records.

2. For the purpose of considering this petition it is not necessary to go into too many facts of this case. Being unsuccessful in the selection for the post of E.D.M.C., Satapada Branch Office, the applicant has approached the Tribunal in this O.A. praying for quashing the selection and appointment of Respondent No. 4 to the post and also for a direction to the Departmental Authorities to give him appointment to the post. Departmental Respondents and private Respondent have filed counter. No rejoinder has been filed. The applicant has challenged the selection of Respondent No. 4 on various grounds which are discussed below.

3. Admittedly for the post of EDMC, Satapada Branch Office, applicant and Respondent No. 4 were considered along with others and Respondent No. 4 was selected. Applicant has urged that in the notice at Annexure-1 inviting applications for the post it was mentioned that the essential qualification is class - VIII pass and preference will be given to matriculate. It is submitted that the applicant has passed I.A. whereas the Respondent No. 4 has not even passed class VIII. The Departmental Respondents and private Res<sup>N</sup>NO. 4 have pointed out that Respondent No. 4 has passed HSC examination. Respondent No. 4 along with his counter has also enclosed a copy of the HSC examination certificate. In view of this, this contention is held to be without any merit and is rejected. The fact that the applicant has passed I.A. is of no consideration because departmental

*Sum*

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DA, 621/99.

## NOTES OF THE REGISTRY

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6. The last ground urged by the applicant is that he is a physically handicapped person and preference should have been given to him. In the notice at Annexure-1 inviting applications for the there was no indication that preference will be given to physically handicapped person. In view of this respondents could not have legally shown any preference for his physically handicappedness. *status -*

7. In consideration of the above, we hold that the Original application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN

KNM/CM.

Free copies of  
final order  
dt. 15.3.2001 issued  
to counsels for  
both sides.

*As*  
27/3/01

*As*  
S. CT