

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

4
counter by
R-4 not filed.

Raj Berh
18/10

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

Court by R-4
not met.

adtd. 13.11.2000

For and

1
10/11/2000

Counters filed by
all respondents - copy
not served

20/11/01 Berh

Copy of counters
not served.

20/11/01 Berh
For service of copy of
counter.

20/11/01 Berh
1.2.2001

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
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.

J. J. M.
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
not
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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1. For service of
Copy of counter
on petitioner's
counsel

2. Copy of counter
not served on
Govt Counsel

125
Beneath

34. Mo & May between
for May.

adj to 15.9.2001.

14.3.2001.

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

5. 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.

11/AM.

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	<p>Departmental Respondents and have perused the records.</p> <p>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.</p> <p>3. Admittedly for the post of EDMC, Satapada Branch Office, applicant and Respondent No. 4 were considered alongwith 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 ResNO. 4 have pointed out that Respondent No. 4 has passed HSC examination. Respondent No. 4 alongwith 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</p> <p style="text-align: right;">S/AM</p>

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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. *(Two S. J. M.)*

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)

Sumnath Som
(SUMNATH SOM)
VICE-CHAIRMAN

KNM/CM.

Four copies of
Final order
dt. 15-3-2001 issued
to counsels for
both sides.

Rs 275/-(
275/-)

S. C. T.