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OA 105/2000

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Dt. 9.8.2000

The learned Asc submits one M-4530/2000 for time to file counter. Copy of counter filed by R-4 be served to other side. Prayer allowed. Time granted till 16.8.2000 as last chance for counter.

REGISTRAR

16.8.2000
16.8.2000
16.8.2000

Applicant is absent on call. Respondent No. 4 is absent and so who is advocate. He has not served the copy of the counter on the applicant and the other respondents. Learned Asc Sh. Jena files MA Praying for 4 weeks time. He was given sufficient time yet he is not ready with counter. Hence no further time can be granted. His MA is devoid of merit and hence rejected. Put up to the Bench for further orders.

REGISTRAR

11. 25.04.2001

At request matter is adjourned to 01.05.2001.

Vice-Chairman
Member (J)

Order dated 1.5.2001

Heard Shri S.S.Mohapatra, learned counsel for the petitioner and Shri S.B.Jena, learned A.S.C. for the departmental respondents and also perused the pleadings.

In this Original Application the petitioner has prayed for a direction to Senior Superintendent of Post Offices, Puri Division (Res.3) for issuing an order of appointment to the post of E.D.B.P.M., Balipada in favour of the selected candidate and for a direction to give appointment to the applicant, if he is found more suitable than other candidates. The third prayer is for direction to Respondent Nos. 2 and 3 (departmental authorities) not to consider the case of Shri Bhaskar Panda (Res.4) for the said post of E.D.B.P.M. as he has not applied on or before 13.10.1997.

Departmental respondents have filed their counter opposing the prayer of the applicant and applicant has filed rejoinder and we have also perused the same. Private Respondent No.4 was issued with notice, but he has neither appeared nor filed any counter.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. The main facts of this case are also not in controversy. The admitted position is that Balipada Branch Office consisted of two staffs, viz. one EDBPM and one E.D.D.A. Respondent No.4 is working as E.D.D.A. in that

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CA-105/2000

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Counter not filed
Per end

2
23.8.2000

Counter not
filed.
Bench
12/12

Counter not
filed.
Bench
11/12

Counter not filed.

16/11/01

1. Counter filed
by A-1103. Copy
served

2. Response to
counter of A-1103
not filed.

3. Counter by
Pvt. R-A not filed.

2/3/01

MA 210/01 for
consideration - copy
served.

18/11/11

Post Office. It is also the admitted position that the post of EDBPM fell vacant due to superannuation of the original incumbent w.e.f. 31.12.1997. Employment Exchange on being moved sponsored names of 40 candidates, out of which 16 candidates including the applicant applied for the post within the time. Out of 16 candidates applying for the post, candidature of three candidates including that of the applicant were short-listed and sent to S.D.I.(P) Jatni for verification. Respondents have stated that S.D.I.(P), Jatni was also directed at the time of placing requisition to the employment exchange to obtain and submit the required statistics of the Post Office for assessing the work load and its financial liability. Respondents have further stated that on the basis of the report obtained by the departmental authorities, it was found that the income of this Branch Office is less than 33% of the cost of running the office. It was also noted that of the two posts, EDDA has work for 1 and ½ hours daily and the EDBPM has the work for less than three hours and therefore, there was no financial or statistical justification for retaining the two posts in the Branch Office. Respondents have stated that the EDDA came up with a representation stating to manage the work of EDBPM in addition to his own duties on payment of prescribed combined duty allowance. It is stated that as the income of the Branch Office did not justify retention of two posts, S.S.P., Puri decided to retain the post of EDBPM and abolish the post of EDDA. Accordingly the existing EDDA (Res.4) was appointed to the post of EDBPM and was also directed to look after the work of E.D.D.A. with an additional payment of Rs.75/- per month. In this background the respondents have prayed for dismissal of the O.A.

The first point submitted by the applicant is that Respondent No.4 admittedly did not apply for the post of EDBPM within the last date of receipt of applications and it was mentioned therein in the notice inviting applications that

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Free copies of order
dt 6.3.2001 issued
to counsels for
both sides.

12
9.4.01

Amn
S.O(D)

for Admission

12
29.4.01

Bench

for Admission

12
29/4/01

Bench

J. Am.

ORDERS OF THE TRIBUNAL

applications received after the last date, i.e. 13.10.1997 would be rejected. Therefore, it is submitted that candidature of Res. No.4 should not have been considered. The second point urged by the learned counsel for the petitioner is that amongst the three candidates two cases were sent for verification and the applicant came to know that he has got the highest percentage of marks in the H.S.C. Examination and therefore, he was the most meritorious. But even then his candidature was ignored.

We have considered the submissions carefully. Respondent No.4 was not appointed to the post of EDBPM through a regular process of selection. He was appointed as EDBPM in view of proposal of abolition of the post of EDDA and by combining the duties of two posts. In view of this, it cannot be said that Res.4 should have competed with other candidates and should have been selected on merit. As the departmental authorities decided in view of financial and administrative exigencies to combine the two posts, the applicant, even if, it is taken for granted, was the most meritorious amongst the three candidates cannot claim, as a matter of right to get appointed to that post. Respondents in their counter have stated that amongst the candidates, who applied, applicant did not get the highest percentage of marks in the H.S.C. Examination. But they have not indicated as to the percentage of marks in respect of three candidates within the zone of consideration. Be that as it may, as the post was not filled up through a regular process of selection as initiated by the departmental respondents, and as the post was filled up by way of adjustment ~~of~~ by combining the two posts, the applicant cannot claim that he should have been given appointment to that post, as discussed above, even if it is granted for argument sake that he is the most meritorious, by adjusting Respondent No.4 against some other

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Free copy of order of 1-5-2001
issued to the counsel for
both sides.

M
3/5/2001

Pls
3/5
S.O.

E.D. Post. In consideration of the above,
we find ^{that} no illegality has been committed by
the departmental in combining the two posts.

In the result, the O.A. is held to
be without any merit and the same is therefore
rejected, but without any order as to costs.

MEMBER (JUDICIAL)

Vice-Chairman
1.5.2001