

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Dt. 9.8.2000

The learned A.S.C.  
submits one M-1530/2000  
for time to file counter  
copy of counter <sup>filed by</sup> of R-4  
be served to other  
side. Prayer allowed.

Time granted till  
16.8.2000 at least  
chance for counter.

REGISTRAR

Com. 16.8.2000  
advt. 16.8.2000

T. ex. advt.

R. ex. advt.

16.8.2000

Applicant is absent on  
call. Respondent No. 4  
is absent and so also his  
advocate. He has not served  
the copy of the counter on  
the applicant and the other  
respondents.

Learned A.S.C. 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 order.

II. 25.04.2001

At request matter is adjourned  
to 01.05.2001.

J. J. M.  
Vice-Chairman  
25/4  
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 <sup>to</sup> the applicant, if he is found more <sup>J. J. M.</sup>  
suitable than <sup>other</sup> candidates. The third prayer  
is for direction to Respondent Nos. 2 and 3  
(departmental authorities) not consider the case  
of Shri Bhaskar Panda (Res.4) <sup>13/8/00</sup> 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

REGISTRAR

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Counter not filed

for and

23.8.2000

nl

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 sort-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  $\frac{1}{2}$  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

counter not filed

Date 12/12

Branch

counter not filed

Date 12/12

Branch

Counter not filed.

Date 16/11/01

Branch

1. Counter not filed by R-1 to 3 - Copy stored

2. Register to counter of R-1 to 3 not filed.

3. Counter by Pmt. R-4 not filed.

Date 27/3/01

Branch

MA 210/01 for  
consideration - copy  
served.

Branch

J. N. M.

Date 29/3/01

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Four copies of order  
of 6.3.2001 issued  
to counsels for  
both sides.

9.4.01  
S. 10 (T)

for Admision

12  
29.4.01

Bench

for Admision

30.4.01

Bench

J. M.

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 ~~or~~ 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

NOTES OF THE REGISTRY

10  
ORDERS OF THE TRIBUNAL

Free copy of order off 1.5.2001  
issued to the counsel bar  
both side.

M  
3/5/2001

~~W.M.~~  
S.O.

E.D. Post. In consideration of the above,  
we find <sup>that</sup> 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)

*Yashwant Singh*  
VICE-CHAIRMAN  
1.5.2001