

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Order dated 25. 3.2004

Heard Sri C.R.Mishra, the learned counsel for the applicant and Sri A.K.Bose, the learned Senior Standing Counsel for the Respondents, and perused the materials available on record.

By filing this Original Application, the applicant Sri S.K.Samanta has prayed for direction to be issued to Respondent No.4 to appoint him "in the post of E.D.B.P.M. under the Dhenkanal Division" and also a direction to be issued to Respondents to absorb him in the existing vacancy "of the post of EDBPM in Beltikiri B.O." as per notification vide Annexure-5.

With regard to 2nd relief sought by the applicant, the Respondents have submitted that the applicant had submitted his application for the said post along with others and after taking all the applications into consideration, they found one Sri Suresh Chandra Sahoo the most meritorious and fulfilled all the eligibility conditions for appointment against the said post. By citing the earlier communication sent to the applicant by their letter dated 29.10.1993(Annexure-R/3) they have submitted that the claim of the applicant for absorption against the post of EDBPM? Beltikiri B.O. was also considered earlier by them in October, 1999 but they found no merit in the said application of the applicant and accordingly, he was informed also that his prayer to that effect was bereft of merit. It has been further disclosed by the Respondents and admitted by the applicant that he was earlier in the year 1988 was appointed on

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provisional basis as EDBPM, Mahisapat B.O. on 23.10.1987 against the put off duty vacancy. However, he was relieved of his provisional appointment since the original incumbent of the post viz., Shri Pravakar Nayak was reinstated and that happened on 2.7.1990. Thereafter, the applicant had approached the Respondents to ~~get~~ keep his name in the waiting list of retrenched E.D.Agents, but that prayer was turned down by the Respondents on the ground that he did not work for three continuous years in any ED posts and therefore, he could not be treated as ED Agent in terms of D.G.P&T circular No.43-4/71-10 dated 18.5.1990<sup>eligible for the said benefit.</sup>. They have therefore, submitted that there is no merit in this O.A. filed by the applicant and therefore, the same should be dismissed.

Having regard to the facts and circumstances of the case, we are of the opinion that the applicant having not been able to compete with the candidates, who had in response to vacancy circular at Annexure-5 applied for the post, he does not have any indefeasible right to claim for appointment. With regard to his other prayer for a direction to be issued to Res.No.4 to appoint him in any ED post under the Dhenkanal Division, we hold that this prayer ipso facto is misconceived as, under the departmental rules/instructions, no such procedure does exist to come to the rescue of the applicant.

For the reasons discussed above, this O.A. being devoid of any merit is dismissed. No costs.

VICE-CHAIRMAN 2/3

MEMBER (JUDICIAL)

Copies of award may  
be sent to the  
court to be heard

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