

OA 130/2000

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

18-9-2000

Counsel filed and
served on the counsel
for the applicant, who
prays for time to file
rejoinder. Heard.
Time granted till
20-10-2000 for
rejoinder.

[Signature]
18/9/2000

REGISTRAR

20-10-2000

Counsel for the
applicant prays for
time to file rejoinder.
Heard. Prayer
allowed. Time
granted till 13-11-2000
for rejoinder.

[Signature]
20/10/2000

REGISTRAR

[Signature]

Revised order

20.10.13.11.2000

For and
10/11/2000 Rec

Order dated 18.9.2001

Heard Shri K.K.Kar, learned counsel for the petitioner and Shri U.B.Mohapatra, the learned A.S.C. for the respondents and also perused the records.

In this Original Application the petitioner has prayed for a direction to respondents to appoint him to the post of E.D.D.A., Chayanpal B.O. after taking into account his experience of working as E.D.D.A. in different spells. Respondents have filed their counter opposing the prayer of the applicant and applicant has filed rejoinder.

For the purpose of considering this O.A. it is not necessary to go into too many facts of the case. The admitted position is that applicant's father was working as E.D.D.A., Chayanpal B.O. and he was superannuated on 31.10.1999. The applicant in his rejoinder has stated that his father should not have been superannuated on 31.10.1999 and should have been ~~superannuated~~ allowed to continue till 2001 going by the date of birth. This aspect cannot be considered in the present application because in the present application there is no prayer with regard to superannuation of his father. It is also the admitted position that during the incumbency of his father the applicant had worked on several occasions as substitute E.D.D.A. It is submitted by the learned counsel that the post of E.D.D.A. was regularly filled in which the applicant was a candidate, but his experience as substitute E.D.D.A. was not taken into consideration. We find no illegality in it, because a substitute works at the risk and responsibility of the regular incumbent as he is inducted by the regular incumbent. A substitute

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13-11-2000.

Learned Counsel for the applicant prays for time to file regarding Head. Prayed allow as last chance to file ~~the~~ by 24-11-2000.

24/11/2000

REGISTRAR

Rejoinder by filed.

Father & rejoinder 23/11

24-11-2000.

Learned Counsel for the applicant prays for time to file rejoinder. Head. Last chance is already over and so his prayer is rejected.

Pleadings deemed completed. Put up to Bench.

24/11/2000

REGISTRAR

For further orders on Lawzema Court's order dt. 24-11-2000

PS 12/1/01

Bench
J. B. M.

is not appointed through ~~any~~ regular process of selection. If the experience of working as substitute is given weightage, then it will always be opened for an incumbent to go on leave by inducting one of his relations as substitute and thereby giving an undue advantage at the time of regular selection to the post in question. In view of this we find no irregularity/illegality in the action of the departmental authorities in not taking into account the experience of the applicant as substitute EDDA in place of his father.

It is submitted by the learned counsel that after the retirement of the father on 31.10.1999, the applicant had worked as E.D.D.A. for sometimes even though no written order was issued to him. In support of his contention the petitioner has enclosed a letter at Annexure-3 addressed to the villagers of and 2 other villages Chayanpal by the applicant stating that he had been working as E.D.D.A. in that post office and in support of this assertion he had called upon the villagers to sign this petition. The pages of this petition contain signatures of a large number of persons. He has also enclosed at Annexure-4, a letter dated 14.2.2000 in which he has stated that after superannuation of his father he has been working till date as E.D.D.A. The Departmental respondents have denied that after retirement of the father the applicant had worked as E.D.D.A. In any case, the applicant has not produced any document in support of his contention that he was ever asked by the departmental authorities to discharge the duties of E.D.D.A. Chayanpal after retirement of his father. He has also not stated that he was inducted to that

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Rejoinder not filed.

Bench

R
15/2/01

Rejoinder not filed.

Bench

R
23/3/01

Rejoinder not filed.

Bench

R
23/4/01

Rejoinder not filed.

Bench

R
20/4/01

For Admission

Bench

R
25/6/01

For Admission

(Rejoinder filed -
Copy not served)

Bench

R
18.07

For Admission

(Rejoinder filed -
Copy not served)

Bench

R
17.07.01

J.S.M.

post through any process of selection where other persons were also considered. In view of this we are not prepared to accept contention of the applicant that even if he had worked as substitute from 31.10.1999 after retirement of his father, he does have a special right to be appointed to the post of E.D.D.A. ^{vacated} ~~(inducted)~~ by his father. Respondents have stated that for filling up of the post of E.D.D.A., Chayanpal a public notice was issued and 11 candidates including the petitioner applied for the post. Amongst the 11 candidates, one Anant Ch.Ram was selected as he secured the highest percentage of marks, i.e. 44.5% in the H.S.C. Examination whereas the applicant secured only 33.8% marks. This averment made by the respondents in their counter with regard to marks obtained by the selected candidate vis-a-vis the applicant has not been denied in the rejoinder. Instructions of D.G.Posts provide that for selection to E.D.Post, the person securing the highest percentage of marks in the H.S.C. should be considered the most meritorious. Even though for the post of E.D.D.A. the minimum qualification is Class-VIII pass, the rule provides that Matriculates should be preferred. In this case the applicant is ~~also~~ a Matriculate so also the selected candidate, and in adjudging the suitability the respondents have gone by the marks obtained in the H.S.C. We also see no illegality in the manner of selection to the post in question. In view of this we hold that the applicant is not entitled to any relief prayed for in this Original

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ORDERS OF THE TRIBUNAL

Free copies of final
Order dt. 18.9.2001
issued to counsel
for both sides.

De
29/9/01

PAUS
S.O.C.T.)
~~18.9.2001~~

Application. The O.A. is held to be without
any merit and the same is rejected, but without
any order as to costs.

MEMBER (JUDICIAL)

Sumath Singh
VICE-CHAIRMAN
18.9.2001