

3

on 29/2000

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Order dt. 23.6.2000

The S.S. counsel is  
 Present & Prays time  
 to serve copy of counter.  
 Heard. Put up on 10.7.2000  
 for the same.

23/6/00

23/6/2000  
 REG/N

Counter copy  
 not served.  
 Patti  
 7/7

Order dt. 10.7.2000

The learned standing  
 counsel for Respondent  
 prays time to serve  
 the copy of counter.  
 Time granted till  
 17.7.2000.

10/7/2000  
 REGISTRAR

Consider copy not  
 served.

Scm

Registrar

Order dt. 17.7.2000

LD SSC is present & prays  
 time to serve the copy of counter  
 Patti to 24.7.2000 for the same.

17/7/2000  
 REGISTRAR

## 7. ORDER DATED 26-2-2001.

Heard Shri R.K.Kar, learned counsel for the  
 applicant and Shri A.K.Bose, learned Senior standing  
 Counsel appearing for the Respondents and have  
 also perused the records.

2. In this Original Application, the applicant  
 has prayed for quashing the order of appointment  
 of Respondent No.3 to the post of EDBPM, Gourgotta  
 Branch Post Office and for a direction to the Supdt.  
 of Post Offices, Bolangir, Respondent No.2 to re-  
 consider the case of the applicant and Respondent  
 No.3 strictly in accordance with the procedure  
 adopted by the Department for selection to the post  
 of EDBPM. Departmental Respondents have filed counter  
 opposing the prayer of applicant. Private Respondent  
 No.3 was issued with notice but he did not appear  
 nor did he file counter. No rejoinder has been filed.

3. For the purpose of considering this  
 Original Application it is not necessary to go  
 into too many facts of this case. Respondents have  
 stated that a vacancy arose in the post of EDBPM  
 Gourgotta Branch post Office on retirement of the  
 regular incumbent. Employment exchange was moved  
 on 18.4.1996 to sponsor eligible candidates but no  
 name was sponsored within the stipulated time.  
 Thereafter public notice was issued on 23.5.96  
 inviting applications from the general public  
 for the post. Respondents have stated that in  
 response to this notice dated 23.5.96, required  
 number of candidates did not apply. Hence another  
 notice was issued on 7.2.97 fixing the last date  
 of receipt application as 7.3.97. Respondents have  
 stated that in reply to this notification also

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Counter copy  
not served.

*Rajesh*  
21/7

24-7-2000.  
Learn SSC files  
a memo stating therein  
that copy of the counter has  
been served on the applicant  
on 19-7-2000. Both the  
applicant and his counsel  
are absent on call.  
However time is granted  
till 14-8-2000 to file  
rejoinder if any.

**REGISTRAR**

Rejoinder not  
filed.

*Rajesh*  
11/8

Dt. 14.8.2000

The Advocates  
have refrained from  
content work. No steps  
have been taken  
for filing of rejoinder.  
Posted to 30.8.2000.

**REGISTRAR**

*Jdm.*

the required number of candidates did not  
apply. Again a 3rd public notification was issued on  
24.10.97. In response to which six candidates including  
applicant and Respondent No.3 applied. It is the  
admitted position that the applicant has got more  
marks than the Respondent No.3 in HSC examination.  
As per check list enclosed by the Departmental  
Respondents, applicant has got 369 marks whereas  
Respondent No.3 has got 230 marks. Instructions of  
DG posts provide that amongst the eligible candidates  
the person who has secured highest percentage of  
mark should be adjudged most meritorious. Respondents,  
however, have stated that alongwith the application  
the applicant did not submit all the required  
documents and because of this his candidature was  
rejected. Respondents have enclosed at Annexure-R/3  
of the counter the xerox copy of the application  
filed by the applicant. In this against Sl.No.  
3(b) applicant has mentioned that he belongs to  
SC and has also mentioned that the certificate in  
original has been submitted earlier. At the end of  
the application in the space meant for 'documents  
enclosed' applicant has stated all documents i.e.  
Xerox copy of Board Certificate, plus 2 CLC, Provisional  
mark sheet of +2, Matric, Caste, Income Certificate,  
Character certificate from different gazetted  
officers and land Regd. sale deed in original  
has been submitted earlier. However, two recent  
character certificate has been attached herewith.  
Respondents have stated that alongwith his  
application the applicant was required to submit  
copies of all necessary required documents and as  
he has not submitted this his candidature has been

OA-29/00

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Rejoinder not  
filed.  
29/8 R works  
Dt. 30.8.2000  
Both the applicant  
and his counsel are  
absent on call. No steps  
taken for filing rejoinder  
Put up to Bench for further  
orders.

30/8/2000  
**REGISTRAR**

Rejoinder not filed  
For order  
21.11.24

Rejoinder not  
filed. Bench  
21/11

Rejoinder not filed.  
Bench  
22/12  
J. Am

Rejoinder not filed.  
Bench  
16/1/01

For Admission  
Bench  
23/2/01

rejected. Respondents have further stated that as the applicant was required to submit only the xerox copy of the documents alongwith his application, the applicant should not have sent the original documents earlier and should have kept those with him and submitted only the xerox copies. Respondents have further stated that after the candidature of the applicant was rejected, Respondents No.3 was selected and he had joined the post. It is further stated that this selection is under consideration of Post Master General, Sambalpur for the purpose of Review but the applicant has approached the Tribunal without waiting for the result of the Review. We have considered the rival stand of the parties in their pleadings as also the submissions of learned counsel for both sides. Admittedly for filling up of the post public notice was issued three times and on the first two occasions as per the Respondents counter, required number of candidates did not apply. It is only against the 3rd public notice six candidates including the applicant and Respondent No.3 applied. Under the Rules, Respondents should have considered not only these six candidates who have applied in response to the 3rd notice but also the candidates who have applied earlier. But this has not been done. Moreover, the applicant has mentioned specifically in his original application that the required documents in original had been submitted earlier presumably with his earlier application. Respondents have not specifically stated that the applicant did not come earlier with an application or these documents stated to have been enclosed by the applicant were not there. In view of this, it must

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## ORDERS OF THE TRIBUNAL

be held that these documents which the Respondents have held to be wanting were in the hands of the Departmental Authorities at the time of selection. In view of this it must necessarily be held that the rejection of the candidature of the applicant on the ground of his not having submitted the required documents alongwith his application is not legally sustainable, because presumably he had applied earlier and those documents as per his statement in his application at Annexure-R/3 had been submitted by him earlier. In view of this we quash the selection and appointment of Respondent No.3 and direct the Departmental Authorities to consider the candidature of six persons who had applied in response to the 3rd public notice as also those who had applied in response to two other public notices and consider the question of selection of most meritorious candidate amongst them afresh. While considering this the application of the applicant should not be rejected on the ground of his not having enclosed enclosed any required documents, in case the required documents have been enclosed by the applicant earlier and are in the hands of the Departmental authorities. This exercise should be completed within a period of 60 days from today. Respondent No.3 is allowed to continue in the post of EDBPM till 60th day in the interest of providing postal service to the local people but the selection must be completed within 60 days and in any case, **it is directed that Res.No.3 shall not be continued beyond the 60th day from today.**

4. With the above observations and directions, the O.A. is allowed. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE CHAIRMAN

KNM/CM.

Case Records received  
to day are 2.3.2001

Free copies of final  
order dt. 26.2.2001  
issued to counsel  
for both sides.

S.C.J.

DB  
2/3/01