

CA-400/2000

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Counter was

07. 04. 07. 01

At the instance of learned Counsel  
for the petitioner matter is  
adjourned to 07-08-01.

Vice-Chairman  
H/7  
Member (J)

DT. 22.11.2000

The learned A.S.C.  
for respondents files  
counter today. Copy served.  
Notice deemed sufficient  
on R-3 as per CAT Rules  
and Procedures.

Put up on 15/12/2000  
for rejoinder by the applicant

REGISTRAR

Rejoinder not filed.

Regr.  
14/12

DT. 15.12.2000

Parties are absent  
on call. No steps taken  
for filing rejoinder.

Put up to Bench for  
further orders.

REGISTRAR

Rejoinder not filed

Bench

29/1/2001

Rejoinder not filed.

Bench

68. 07.08.2001

Heard Shri S.R.Das, learned counsel for  
the petitioner and Shri B.Das, learned A.S.C.  
appearing for Res. 1 and 2. Private Res. No.3 was  
issued with notice, but he neither appeared nor  
filed any counter.

In this O.A. the petitioner has prayed for  
quashing the appointment of Res.No.3 to the post of  
E.D.B.P.M., Dhirakul B.O. and for direction to  
Res. 1 and 2 to select him to that post of E.D.B.P.M.  
Respondents have filed their counter opposing the  
prayer of the applicant. No rejoinder has been filed  
by the applicant.

For the purpose of considering this  
petition it is not necessary to go into too many  
facts of this case. Admittedly a vacancy in the  
post of E.D.B.P.M., Dhirakul arose on 28.4.2000  
because of superannuation of the regular incumbent.  
Consequently the Junior Employment Officer, Udala  
was addressed in letter dated 3.3.2000 (Annexure-R/1)  
to sponsor the names of three eligible candidates  
belonging to Scheduled Caste community so as to reach  
the Superintendent of Post Offices, Mayurbhanj by  
2.4.2000. It is necessary to note that the post was  
reserved for Scheduled Caste candidate. Simultaneously  
a public notice was issued on 3.3.2000 calling for  
applications from the general public fixing the  
last date of receipt of applications to 27.3.2000.  
The Employment Exchange authority sponsored certain  
names and those persons were asked to submit their

NOTES OF THE REGISTRY

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Rejoinder not filed.

12/10/01 Berch

Rejoinder not filed.

12/10/01 Berch

Rejoinder not filed

12/19/01 Berch

For hearing

12/3/01 Berch

For hearing

12/6/01 Berch

J. Sam.

applications in the prescribed proforma along with necessary documentation, fixing 24.4.2000 as the last date of receipt of applications. Admittedly the applicant was one of the candidate within the zone of consideration, but he was not selected. Hence this application with the prayer for quashing the selection and appointment of Res.3 and direction to the departmental authorities to select the applicant on various grounds, which are discussed below.

The 1st ground urged by the learned counsel for the petitioner is that 27.3.2000 was the last date of receipt of applications and by that date the applicant was the sole candidate belonging to Scheduled Caste. Respondents have pointed out in their counter that there were as many as 12 S.C. candidates, who had applied and the applicant was not the only candidate belonging to S.C. It is submitted by the learned counsel that all the other S.C. candidates barring the applicant applied for the post after 27.3.2000, which was the last date of receipt of applications and therefore, their candidatures could not have been taken into consideration. This contention is without any merit, because 27.3.2000 was the last date for receipt of applications in response to public notice. The Employment Exchange was asked to sponsor names so as to reach the Superintendent of Post Offices, Mayurbhanj by 2.4.2000. Thereafter those candidates were addressed to submit their applications in the prescribed proforma duly filled in along with necessary documentations fixing the last date of receipt of such applications to 24.4.2000. In view of this it cannot be said that by 27.3.2000 was the last date of receipt of applications. This contention is held to be without any merit and the same is therefore, rejected.

We find from the check sheet that application of the selected candidate (Res.3) was received by the departmental authorities on 24.4.2000, which was the last date of

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receipt of applications, so far as candidates sponsored by the Employment Exchange are concerned.

The 2nd contention of the learned counsel for the petitioner is that the departmental respondents have mentioned in their counter that the case of the applicant could not be taken into consideration, because along with application, applying for the post, he had not filed any document showing the landed property exclusively in his name. The document filed by the applicant showed ownership of land along with one Bhawani Sankar Patra. It is submitted by the learned counsel for the petitioner that in O.A. 608/99, disposed of by this Bench in order dated 24.1.2001, the Tribunal held that under the Mitakshara system, a person, having a coparcenary interest in a joint family property has a specific identifiable interest and as the eligibility requirement is independent of means of livelihood the candidature of the applicant <sup>therein</sup> could not be <sup>in fact</sup> rejected on the ground of his not having filed any document showing landed property exclusively in his name. We have gone through the above decision, as relied upon by the learned counsel for the applicant. But the fact remains, even if it be so, no case has made out by the applicant for the simple reason that according to instructions of D.G. Posts, amongst the eligible persons, a candidate securing the highest percentage of marks in the H.S.C. Examination has to be taken as the most meritorious. In the instant case <sup>while</sup> the applicant has secured 307 out of 750 marks representing 40.08%, the selected candidate (Res.3) has secured 349 out of 750 marks representing 46.53%. In view of this, even if the candidature of the applicant would not have been rejected, he would not have been in normal course, selected because he has secured the lesser marks in the H.S.C. than the selected candidate Res.3.

In view of the discussions held above, the O.A. is held to be without any merit and the same is rejected, but without any order as to costs.

Free copies of final order dt. 7.8.2001 issued to counsel for both sides.

12/8/01 S. S. (J) S. S. (J) 9-8-01

MEMBER (JUDICIAL)

VICE-CHAIRMAN