

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order no.7 dated 29.1.2001.

This matter has been posted today at 2.30 P.M. for passing orders on OA No.887 of 2000 and OA 60/2001 seeking intervention in the OA and withdrawal of the OA respectively. We have heard Shri R.P.Kar, the learned counsel for the applicant, Shri P.V.Ramdas, the learned counsel for intervenor-petitioner, and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents at some length on these two OAs.

2. In the OA the petitioner has prayed for a direction to the respondents to consider his candidature for the post of EDBPM, Nandika Branch Post Office, as a physically handicapped person. By way of interim relief he had prayed that the respondents should be directed not to finalise the selection process in respect of the appointment to the post till the disposal of the O.A. At the time of hearing on the prayer for interim relief, the learned counsel for the petitioner had prayed for a direction to the departmental authorities to take into account his certificate of handicapped status at the time of considering his candidature. As the prayer for interim relief was the same as the final relief, in our order dated 23.11.2000 we had rejected the prayer for interim relief going by the decision of the Hon'ble Supreme Court in AIR 1992 SC 671. Against this order the petitioner had approached the Hon'ble High Court of Orissa in OJC No.12310 of 2000 and their Lordships of the Hon'ble High Court in their order dated 28.11.2000 have directed the departmental authorities to consider the certificate submitted by the petitioner in

support of his case that he is a physically handicapped person. It has been further observed that this will be without prejudice to the rights and contentions of the parties to be decided in the main case, i.e., the present O.A.

3. The learned counsel for the petitioner has stated that as the relief asked for in the O.A. has been granted by the Hon'ble High Court, he does not wish to pursue the OA and has filed MA No.60 of 2001 for withdrawal of the O.A.

4. It has been submitted by the learned counsel for the intervenor-petitioner that he is a candidate in the selection and as the Hon'ble High Court have directed for consideration of the candidature of the petitioner and have not mentioned that the candidature of the petitioner will be considered along with others, the intervenor-petitioner is apprehensive that the departmental authorities may consider only the applicant and not the other candidates including the intervenor-petitioner and he, therefore, prayed that the intervenor-petitioner should be impleaded as a party in this OA so that he will be in a position to approach the Hon'ble High Court and place his grievance and obtain appropriate orders from the Hon'ble High Court.

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5. It is submitted by the learned counsel for the petitioner that the spirit of the order of the Hon'ble High Court is that the applicant's case and his handicapped status should be considered along with other candidates though this has not been mentioned in so many words in the order of the Hon'ble High Court.

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6. We are not inclined to consider as to what the import of the order of the Hon'ble High Court is. We are sure that the departmental authorities, while finalising selection for the post in question, will act strictly in accordance with the letter and spirit of the order of the Hon'ble High Court.

7. As the applicant does not want to pursue this OA, MA No.60 of 2001 seeking withdrawal of the OA is allowed.

8. The intervenor-petitioner is only one of the candidates. By merely becoming a candidate in the selection, he does not become a necessary party moreso when the consideration of handicapped status of the applicant is the point for determination in the OA. In other cases also we have consistently held that a candidate by his having applied for a post does not become a necessary party when the selection is yet to be made. In view of this, we reject the intervention petition.

9. The Original Application is dismissed as withdrawn. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

(SOMNATH SOM)

VICE-CHAIRMAN

Free copies of
Final order
at 29.1.01 given
to both sides.
3 (three) copies

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