

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Order dated 16.1.2002

Heard Shri P.K.Padhi, learned counsel for the petitioner and Shri J.K.Nayak, learned Addl. Standing Counsel for the respondents and perused the pleadings.

In this O.A. the petitioner has prayed for a direction to respondents, more specifically S.D.I.(P), Kujang(Res.3) to absorb him in any E.D.Post/Group D post.

The case of the applicant is that he was appointed as Part-time Waterman/in order dated 19th July, 1988 in Erasama S.O. with a consolidated amount of Rs.93 plus usual D.A. as admissible from time to time, which is at Annexure-1. It is stated that during the vacancy of E.D.Aagents, he had worked as substitute in different posts, as and when necessary. He has also worked as E.D.Packer, Kunjakothi B.O. from 16th July, 1999 till 5th May, 2000. He has passed Class <sup>X</sup> <sub>JUN</sub> and is otherwise eligible to be considered for appointment to Group D post and also for E.D. Post. Applicant has applied for the post of E.D.M.C., Kunjakothi B.O., but his case has not been considered in view of the circular of D.G.Posts. The applicant has stated that S/Shri Bibhudha Kumar Pradhan and Ramech Acharya, Sweepers-cum-Watermen like him have been offered E.D.Posts in the same Division even though they are junior to him in the length of service and therefore, he has been discriminated against.

Respondents in their counter have admitted that the applicant was initially engaged

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as part-time Waterman w.e.f. 2.5.1988. They have stated that before engagement of the applicant, Sub Post Master, Kujangal did not call for the names from the Employment Exchange nor did he issue any open advertisement. It is stated that pending regular appointment to the post of E.D.M.C., Kunjakothi, the petitioner had been provisionally appointed against some posts in short spells, as per details given in Page-2 of the counter. At the time of regular selection 23 candidates did apply for the said post of E.D.M.C., Kunjakothi, but the application of the petitioner was received after the last date for receipt of applications was over. Besides, the post was reserved for O.B.C. community and the applicant belongs to General community and therefore, his case could not be considered for the post of E.D.M.C., Kunjakothi. It is further stated that at present the applicant is getting consolidated allowance of Rs.451 plus allowance. It is further stated by the respondents that there is no post of E.D.Packer in Kunjakothi. It is further stated that according to circular dated 6.6.1988 of the D.G.Posts, preference is to be given to whole time/part-time casual labours for appointment against E.D.Post subject to the condition that at time of their initial engagement their names have been sponsored by the Employment Exchange. Respondents have further stated that as in the instant case name of the applicant was not sponsored by the Employment Exchange, he is not entitled to the benefit of the above circular of the D.G.Posts. On the above grounds

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respondents have opposed the prayer of the applicants.

The gists of circular dated 6.6.1988 of the D.G.Posts have been printed at Page-98 of the Swamy's Compilation of E.D.Rules (7th Edn.). In this circular it has been observed that for filling up of the Group D posts in the Department there is a scale of priority with non test categories occupying the 1st position, E.D. Casual workers whole time/Parttime Employees occupying the 2nd position and coming after the other, after the above two categories. In this circular it is noted that as the number of Group D posts falling vacant are few and the number of E.D.Posts are very large, casual labourers whether whole time/part-time coming below the E.D.Employees in the scale of preference hardly ever get any chance to get absorbed in Group D posts in the Department, even after long years of service. In consideration of this, in this circular it has been laid down that in view of the above difficulties, casual labourers, whether whole time/part-time should be given preference while filling up of the posts of E.D.Agents, provided that they have the minimum qualification for the post and have put in minimum service of one year. The 3rd condition is that only such part-time/whole time casual labourers would get the benefit of the circular whose names have been sponsored by the Employment Exchange at the time of their initial engagement.

It is submitted by Shri Padhi that at the time of initial engagement applicant's name was registered in the Employment Exchange.

S. N. M.

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Order dt. 16.1.2002 issued  
to counsel for  
both sides.

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Paradeep, as is evident from the order of appointment vide Annexure-1. But as the applicant has not been considered along with other candidate whose names were also registered in the Employment Exchange and whose names might have been sponsored had a requisition been sent to the Employment Exchange, it is clear that the applicant is not entitled to get the benefit of the above circular of the D.G.Posts. But that circular only provides for giving a preference. This does not mean that the case of the applicant should not be considered at all. In view of this, I dispose of this O.A. with a direction to the departmental authorities that in case the petitioner applies for any E.D.Post for which he has the necessary qualification, his case may be considered in accordance with rules, along with others.

No order as to costs.

S. V. Somnath  
VICE-CHAIRMAN  
16.1.2002