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ORDER DATED 15-5-2001.

Heard Shri H.M.Dhal, learned counsel for the applicant and Shri S.B.Jena, learned Additional Standing Counsel appearing for the Respondents as also Shri P.V.Ramdas, learned counsel appearing for the Private Respondent No.3. It is submitted by learned counsel for the applicant that he confines his prayer in this Original Application for issuing of a direction to the Departmental Respondents to consider the applicant for appointment to any post of EDBPM in view of his long seven years of service as EDBPM, Badbahal BO.

Facts of this case are not in controversy. Originally Respondent No.3 was working as EDBPM, Badbahal BO and the applicant was working as EDDA in the same Post Office. Respondent No.3 was proceeded against and was removed from service. In the consequential vacancy in the post of EDBPM, due procedure was adopted for filling up of the post and the applicant applied for the post of EDBPM and on completion of the formalities, he was selected and provisionally appointed. Respondent No.3 approached this Tribunal in O.A.No.131/98 which was allowed in order dated 10.4.1999 and the order of removal was quashed and it was directed that the disciplinary authority, if he so chooses may communicate the reasons for disagreement with the findings of the inquiring officer to the applicant, allow her time to represent within a reasonable period and after taking that into consideration pass appropriate orders. Accordingly, further action was taken and the Departmental Respondents have pointed out that at the conclusion of the de novo enquiry, Respondent No.3 was found not guilty and was ordered to be

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reinstated to the post of EDBPM, Badbahal BO. Departmental Authorities have also pointed out in their counter filed in March, 2000 that the applicant refused to hand over the charge of the post of EDBPM, to the Respondent No.3. In the Original Application, the applicant has made several points challenging the reinstatement of Res.No.3 but these points have been ^{not} ~~driven out~~ ^{passed} in course of submission made by Shri H. M. Dhal, learned counsel for the applicant. In view of this we hold that Respondent No.3 is entitled to be reinstated to the post of EDBPM, Badbahal and the applicant is obliged to hand over the charge to her if not already done. This should be done within a period of 15 days from the date of receipt of a copy of this order. It is submitted by learned counsel for the applicant that the applicant was working as EDBPM for about 7 years and because of no fault of his part he has now been removed from the post of EDBPM on reinstatement of Res.No.3 to the post. In view of this applicant wants that he should be considered for any other post of EDBPM in the same recruiting unit. Departmental instruction provides that if an ED agent has worked for more than three years and if he becomes surplus because of reasons which are unconnected with his official conduct, then his name should be kept in the waiting list and he may be offered some other ED post. It is submitted by learned ASO, Shri S.B. Jena that on reinstatement of Res.No.3 to the post of EDBPM, applicant will continue to hold the post of EDDA. In view of this it must be held that the applicant will not become surplus and his name need not be kept in the waiting list but in case the applicant applies

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for the post of EDBPM in the Recruitment Unit his case should be considered by the Departmental Respondents, strictly in accordance with Rules.

with the above observations and directions, the Original Application is disposed of. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.

Free copies of
final order
dt. 15-5-2001 issued
to counsel for
both sides.

22/5/01 S.O (D)