

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

For Admission
(Copy of rejoinder not served)

PS
29/8/01

Bench

07. 19. 07. 01

As per request made on behalf of learned Counsel for the petitioner matter is adjourned to 21.08.01.

Vice-Chairman
19/7

Member (J).

08.21-08-2001.

Heard Shri S.K.Das, learned counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel for the Respondents and have also perused the records.

In this Original application, the applicant has prayed for quashing the appointment of Respondent No.4 to the post of EDBPM, Anuha Branch post Office at Bhadrak and also for a direction to the Departmental Authorities to appoint the applicant to that post.

Respondents have filed counter opposing the prayer of applicant and the applicant has also filed rejoinder. Private Respondent No. 4 was issued with notice but he did not appear nor file any counter.

For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case. The admitted fact of this case is that the applicant and Respondent No.4 were considered along with some other persons for the post of EDBPM, Anuha Branch post Office. According to the instruction of the Director General of posts, amongst the eligible

Sd/-

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Contd...Order dt. 21-8-2001.

candidates person who has secured highest mark in the HSC examination is to be considered most meritorious. In the instant case, both the applicant and Respondent No.4 have got the same marks in the HSC examination i.e. 506 out of 750 marks. The other relevant factual aspect is that the Income of the selected candidate Respondent No.4 is Rs.12,000/- out of which Rs.10,000/- is from Agrl. and Rs.2,000/- is from tuition. So far as the applicant is concerned his income is Rs.8000/- out of which Rs.5000/- is from Agrl. and Rs.3000/- is from the source which has not been specified in the Income Certificate. Respondents in their counter have stated that according to the instruction, income from Agrl. has to be taken into account and as the income of Respondent No.4 is more than the Income of applicant from Agrl; he has been selected. It is submitted by learned counsel for the Applicant that the Tribunal in an earlier OA No.235/1998 have held that the point for consideration is independent means of livelihood and the source of income is not of consideration. Even if it is taken into consideration that this would have been the total income and not the income from Agricultural land, even then the applicant's income is less than the income of Respondent No.4. As in the instant case, both the candidates have got the same marks the Departmental Authorities have gone by the larger income of Respondent No.4. In the absence of any other criteria, we do not think that adoption of this criterion is discriminatory or arbitrary. In view of the above, we hold that the applicant has not been able to make out a case for the relief claimed by him.

J.P.M.

6

OA. 584/2000

NOTES OF THE REGISTRY

Free copies of final
order dt. 21.8.07
issued to counsel
for both sides.

S.O.D

24/8/07

ORDERS OF THE TRIBUNAL

In the result, therefore, the Original Application
is held to be without any merit and the same is
rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN