

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Court not held
advt 16.3.2001.

1
15.3.2001.

Regr.

Dt. 16.3.2001

The learned Asst. Sri B. Das filed one M.P. Application and pray for four weeks time to file counter on the grounds stated therein. Heard. Prayer allowed. Time granted till 9.4.2001 for counter as first chance.

16/3/2001
REGISTRAR

Counter not filed.

DB
AAI

Regr.

No counter on 9.4.01.
Posted to 11.5.01.

Counter not filed.

11-5-2001.

Regr.

Learned Asst. S/o. B. Das filed one M.A. and pray for a weeks time to file counter. Last chance is given. Heard. Last chance is given and no further chance can be given. M.A. is therefore rejected.

OS. 06.08.01

Pleadings are complete.
Applicant has filed a memo for fixing an early date of hearing.
Adjourned to 29.08.01 for hearing and final disposal at the stage of admission.

Memo is accordingly disposed of.

J.V.M.
vice-chairman
b/s
Member (J).

Order dated 29.8.2001

Heard Shri D.P. Dhalasamant, learned counsel for the petitioner and Shri B. Das, learned Add. Standing Counsel for the respondents and also perused the records.

In this application the applicant has prayed for a direction to respondents to allow him to continue in the post of EDDA/MC, Mamadulla Branch Post Office till regular selection is made or regularly selected candidate joins the post. In the alternative he has prayed for direction to respondents to appoint him in any other vacant ED post till regular selection is made. His second prayer is for direction to respondents to consider his case for the post of EDDA/MC, Mamadulla Branch Post Office in the regular process of selection giving due weightage to his past experience.

✓ put up before the Bench
for further order.

11/5/2001
REGISTRAR

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Ref. Registrar Court's
order dt. 11.5.2001

Counter not filed.

Br 16/5/01 Bewer

Free copies of order
dt. 17.5.2001 issued to
counsel for both sides.

Br 16/5/01
S-05/01

Counter not filed.

Br 17/5/01 Bewer

Court not held.
Counter not held.
Respondent not held.

Br 26/5/01 Bewer

For Orders on Memo

Br 28/5/01 Bewer

For Admonition

Br 28/5/01

For the purpose of considering this petition it is not necessary to go into too many facts of this case. The admitted position is that the vacancy in the post of EDDA/MC arose due to retirement of the regular incumbent on 22.1.1993 (mentioned by the applicant as 1994). The applicant has stated that he was provisionally appointed to that post for 61 days w.e.f. 1.11.1997 to 31.12.1997 or till regular appointment is made vide order at Annexure-1. It is stated again that he was provisionally appointed for 150 days from 1.1.1998 to 30.5.1998 or till regular selection is made, whichever is earlier. The applicant has stated that he has been relieved from the post of EDDA/MC even though no selection has been made and at present the post is lying vacant. He has further stated that the post of EDBPM at Mamadulla B.O. was lying vacant and he was provisionally appointed to that post on 19.6.1999 till the regular appointment is made vide order at Annexure-3. It has been further stated by him that the post of EDBPM has in the meantime been filled up through a regular process of selection and even though he had applied, he was not selected. Because of his non selection he had to make way for regularly selected EDBPM. It has been further stated that the post of EDDA/MC Mamadulla is still lying vacant and in the context of that ~~and~~ in the light of his experience he has come up with the prayers referred to earlier.

Respondents in their counter have stated that the applicant was provisionally appointed to

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the post of EDDA/MC and he continued in that post and ultimately his services were terminated vide letter dated 1.5.1998 under Annexure-R/2. For the post of EDDA/MC the departmental authorities asked the employment exchange to sponsor names in pursuance of which the employment exchange, vide its letter dated 20.8.1993 under Annexure-R/3 sponsored the names of seven candidates in which the name of the applicant did not find place. Respondent have stated that when the regular selection for the post of EDDA/MC was in the process one Shri Krushna Chandra Mallick approached this Tribunal in O.A.59/94 with a prayer to absorb him in that post on the basis of his past experience and this claim was rejected by the Tribunal in order dated 27.9.1999. In the context of the above respondents have opposed the prayer of the applicant to appoint him again to the post of EDDA/MC. As regards the post of EDBPM, respondents have stated that the case of the applicant was considered along with others. Whereas the selected candidate one Amitav Sahoo had secured 71.73% of marks in the Matriculation examination the applicant only secured 40.8% marks and therefore, he was not selected. In this view of the matter respondents have opposed the prayer of the applicant.

No rejoinder has been filed by the applicant.

In the O.A. the petitioner has made no prayer with regard to his appointment to the post of EDBPM, Mamadulla B.O. and therefore, it is not necessary to consider this aspect. So far as the

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post of EDDA/MC is concerned, according to averment of the applicant himself in the O.A. he was initially appointed for a period of 61 days and again for another period of 150 days. This period of 150 days was due to be over on 30.5.1998, as mentioned by the applicant. Respondents have stated that his services as EDDA/MC were terminated on 1.5.1998. Applicant has not stated that he was given provisional appointment for 61 days and 150 days through a process of selection where other persons were also considered. In view of this he cannot, ~~as~~ under law, claim that he should be given regular appointment to that post. Moreover, admittedly the applicant was disengaged from the post of EDDA/MC on 1.5.1998 and he has approached the Tribunal in November, 2000, i.e. after a delay of more than one year. He has also not stated that against the order of termination he had filed any representation before the departmental authorities. On this ground also the petition is not maintainable. Therefore, the prayer of the applicant for direction to respondents to appoint him to the post of EDDA/MC ~~as~~ is held to be without any merit and the same is rejected.

The last prayer of the applicant is for direction to respondents to consider him for any other ED post. It is not necessary for issue any direction to that effect. In any case, if the petitioner applies for any ED Post, for which he has necessary qualification, the respondents will be obliged to consider his case strictly in accordance with rules.

J.M.

CA. 617/2000

In this view of the matter we hold that the application is without any merit and the same is accordingly rejected, but without any order as to costs.

MEMBER (JUDICIAL)

N. Venkateswara,
VICE-CHAIRMAN
29.8.2001

free copies of
Final order
dt. 29.8.2001 issued
to counsel for
both sides.

DR
318-0

DR
5.00/-