

A. K. BISWA L.

....

APPLICANT.

:VERSUS:

UNION OF INDIA & ORS.

RESPONDENTS.

13. ORDER DATED 07-03-2001.

Heard Shri P. K. Padhi, learned counsel for the Applicant and Shri Anup Kumar Bose, learned Senior Standing Counsel appearing for the Respondents and have also perused the records.

In this Original Application, the applicant has prayed for a direction to the Respondents to regularise the services of the applicant or to absorb the applicant in any ED posts or Gr. D posts in the Department. By way of interim relief, the applicant has prayed for a direction to the Respondents to consider the case of applicant for the post of EDDA Sabhamula BO.

Respondents have filed their counter explaining their stand. No rejoinder has been filed. It is submitted by Shri Padhi, learned counsel for the applicant that this application was filed when selection process for the post of EDDA, Sabhamula BO was still going on. It is further submitted by him that in the meantime selection process might have been completed and he does not challenge the said selection. The case of the applicant is that he has been working from April, 1994 as part time waterman (casual Labour) in Borikina SO on a consolidated basic allowance of Rs. 147/- per month. He is a matriculate and he has applied for various ED posts but no consideration has been shown

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contd... Order Dt. 7.8.2001.

to him in terms of DG P&T circular dated 6.6.1988. In view of this, the applicant seeks a direction to the Respondents to consider the case of applicant in terms of DG P&T circular dated 6.6.1988, in case he applies in response to an advertisement for any ED posts. The gist of the above circular has been printed in Swamy's Compilation of ED Rules and has been ~~enclosed~~ by the Respondents at para ~~4/5~~ of their counter. In this circular it has been mentioned that according to the Recruitment Rules for the post of Gr.D in the Deptt. the order of preference is (a) Non test category; (b) ED employees; (C) Casual labourers and (D) Part Time casual labourers. It is further stated that as number of Gr.D posts are limited and as number of EDAs are very large whole time and part time casual labourers hardly ever get a chance to get appointed in Gr.D posts in the Deptt. In consideration of this it has been ordered in this circular that casual labourers whether full time or part time who are willing to be appointed to ED posts provided that they fulfil all the conditions and have put in a minimum period of service of one year which brings to 240 days in a year should be given preference for recruitment as EDAs subject to their giving willingness for the same. It is further provided that it should be ensured that while filling up of the vacancies of casual labourers nominations are called for from Employment Exchange so that ultimately the casual labourers who are considered for ED vacancies have initially been sponsored by Employment Exchange.

contd. Order... dt. 7.8.2001.

Respondents in their counter have stated that as the applicant's name was not sponsored by the Employment Exchange at the time of his engagement as a part time casual labour as a waterman in Borikina S.O. in April, 1994, the applicant is not entitled to the benefit of preferential consideration for the ED post as mentioned in the above circular of DG P&T dt. 6.6.1988. We have considered this submission carefully. We find that the Respondents have mentioned at page 4 of their counter that applicant has been selected and appointed by SPM, Borikina as waterman on the strength of an Employment Registration Card and he has not been sponsored by the Employment Exchange. As in this case before his initial engagement it has been checked up by the Department that he is registered in the Employment Exchange and he has been appointed on the strength of such registration we hold that the applicant will be entitled to the benefits of the circular of the DG P&T dated 6.6.1988. In view of our above findings, we dispose of this O.A. with a direction to the Respondents that in case the applicant applies for any ED Job in response to an advertisement then his case should be considered alongwith others in accordance with Rules and also in accordance with the above circular dated 6.6.1988.

With the above directions, the O.A. is disposed of.

NO costs.

9/8/01 5.00
SOMNATH SOM
(G. NARASIMHAM)
MEMBER (JUDICIAL)

SOMNATH SOM
VICE-CHAIRMAN
9/8/01

KNM/GM.