

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dated 11.12.2001

Heard Shri T.Rath, learned counsel for the petitioner and Shri S.Behera, learned Addl. Standing Counsel for the respondents and perused the pleadings.

In this Original Application petitioner has prayed for quashing the order dated 28.2.2001 at Annexure-3 and also for direction to respondent to engage him as contingent paid worker in the office of Sub-Post Master, Nilagiri College Sub Post Office, Raj Nilagiri, Balasore (Res.4). Respondents have filed their counter opposing the prayer of the applicant. No rejoinder has been filed by the applicant.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. From the pleadings of the parties it appears that Sub Post Office, Nilagiri College, is a non-delivery Post Office with the establishment of one Sub-Post Master and one E.D.Packer-cum-M.C., with consolidated sweeping/~~xxx~~ water carrying allowance. Respondents have stated that one Ratnakar Behera was working as contingent worker for sweeping/water carrying duty prior to 1987. Subsequently Shri Behera was selected to the post of E.D.M.C., Hata Sahi B.O. w.e.f. 16.6.2000. Respondents have stated that the vacancy caused in the post of contingent paid worker in the place of Shri Behera on his promotion should not have been filled up because there is no post of contingent paid worker in that S.O. and there is complete ban on recruitment of contingent worker. The applicant has stated

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

that he was engaged in the post of part-time contingent Sweeper-cum-Water Carrier w.e.f. 17.6.2000 in order dated 16.6.2000 at Annexure-2. He was accordingly worked in that post for about eight months when by virtue of the impugned order dated 28.2.2001 he was disengaged and his name was struck off from duty. Learned counsel for the petitioner Shri T.Rath did not contest the submission made by the learned Addl. Standing Counsel Shri Behera that there is no post of contingent paid worker (Full time/part-time) in Nilagiri College Sub Office. It is submitted by the learned counsel for the petitioner that respondents themselves have stated in their counter that it is open for the Postmaster to get the contingent work done by making payment through voucher in accordance with circular dated 16.11.1990 (Annexure-R/4). Applicant has stated in Para-4.8 of the O.A. that as a matter of fact one Gadadhar Nayak is being paid through voucher for doing contingent work, but his case is being ignored. On a perusal of the relevant part of the counter we find that this averment of the applicant that Shri Gadadhar Nayak is being paid through voucher for doing contingent work has not been denied by the respondents in their counter. In the relevant para of the counter while contesting Paras 4.8 and 5.6 of the O.A. respondents have merely stated that no ~~any~~ appointment has been made to the post of contingent worker in that S.O. after 28.2.2001. They have further stated that it is open for the Sub Postmaster to get the continge



NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Free copy of order
dt. 11/12/07 issued to
the counsel for both
sides.

724907
12/12/07
S. O.

NY
13/12/07

work done by making payment through voucher.

It is the admitted position that the applicant was engaged as contingent worker and have worked as such for about eight months. He has been disengaged because there is no post of contingent worker. But as an ex contingent worker he has a right to be considered over fresh faces even for the purpose of contingent work to be done on contingent ^{voucher} basis. In consideration of the ^{above} above, we dispose of this O.A. with a direction to Respondent Nos. 2, 3 and 4 that in case in the Office of Res.4 contingent work is being done through payment ^{on} ~~of~~ voucher then they should consider ~~for~~ ^{submit} getting such work done by the applicant as he had earlier worked as a contingent worker. No order as to costs.

MEMBER (JUDICIAL)

VICE-CHAIRMAN