

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

For admission and  
hearing.

Bench

MY  
25/2/04

For admission and  
hearing.

(Part heard)

Bench

MY  
25/3/04

24. 26.03.04.

Copy of Supdt. Post Office, Cuttack 20th Div  
Letter No. F/CH-3/01-02 dtg  
17-03-04 addressed to A.K. Box  
is kept on record.

R.O.  
Ty  
26.03.04  
C.O.

Order dated 11.02.2004.

On the prayer made by the  
applicant's counsel and in view  
of facts mentioned in memo  
dated, let this be called on  
26.2.04.

Vice-Chairman (T)

Vice-Chairman (A)

Order dated 26.02.04.

hearing in - part

Adjoining to 26.03.04.

Vice-Chairman (T)

Member (S)

Order dated 26.3.2004

This Original Application has been filed  
by Shri Dillip Kumar Jena, challenging the  
order dated 19.2.2001 passed by Respondent No.2  
directing him to handover the charge of the  
post office to the selected candidate for  
the post of E.D.B.P.M., Angaswarpara Branch  
Office.

The facts of the case in short are that  
the applicant was appointed as E.D.B.P.M. of  
Angaswarpara Branch Office vide appointment  
letter dated 25.3.2000. The applicant is a  
physically handicapped candidate and he has  
submitted his application at the time of recruit-  
ment stating his physical condition. He had  
on this ground appealed to the Respondents to  
allow him to continue in the post of EDBPM and

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requested them not to fill up the post by an outsider. He had also taken the matter before the Tribunal in O.A.232/2000. He had also moved the matter before the High Court in O.J.C.No.5001/2000 wherein the Hon'ble High Court was pleased to issue direction to the Respondents not to take away the service of the applicant without the leave of that Court. However, vide order dated 10.8.2000, the Writ Application was withdrawn. Thereafter the Respondents asked the applicant to hand-over the charge of the post office to one Shri A.K.Swain, Overseer Mail with mala fide intention. Stating these facts, the applicant has sought the direction from the Tribunal to Res.No.1 to 3 to insist upon Res.No.4 to provide alternative accommodation for shifting of the Branch Office and before that to clear up the payment of arrear wages/salaries of the applicant for the period he had worked as E.D.B.P.M.

The Respondents-Department, by filing a detailed counter have submitted that the EDBPM, post of Angaswar Branch Office which fell vacant consequent upon retirement of the previous incumbent was advertised, being reserved for S.T. candidate and accordingly, applications were called from the eligible candidates. In the process, by fixing they finally selected one Shri B.N.Behera, an S.C. candidate, following the procedure laid down in this regard, as no S.T. candidate was found eligible. However, the selected candidate could

not assume his office due to <sup>intransigence of the applicant</sup> ~~intransigencies~~ and that is how the applicant took the matter repeatedly before the Court for adjudication. It has further been disclosed by the Respondents that while the applicant had withdrawn his writ petition No.5001/2000 on 10.8.2000, he had filed another Writ Petition bearing O.J.C.No.9906/2001 against the order passed by this Tribunal on 17.7.2001 in O.A. 232/2000, dismissing that O.A. They have also disclosed that as per the interim direction of the Tribunal in O.A.232/2000, they have already paid wages to the applicant for the period he had legally functioned as EDBPM and an amount of Rs.3114/- in this respect was paid to the applicant on 23.7.2001. In spite of the aforesaid, it has been stated by the Respondents, that the applicant has not still formally handed over the charge of the post office. However, the Respondents have closed the post office at Angeswarapara Bx9. and the post office is now functioning in another location and that they have appointed the selected candidate, i.e., Shri B.N.Behera, as EDBPM with effect from 5.5.2001.

None appeared on behalf of the applicant nor has there been any request made on behalf of the applicant seeking an adjournment. This matter was heard in part on 26.2.2004. In view of this it is not possible to adjourn this part-heard matter in the absence of any request for adjournment. However, we have heard Shri A.K.Bose, learned Senior Standing Counsel appearing on behalf of the Respondents and also perused the materials adduced in this part-heard matter.

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The main relief sought by the applicant in this O.A. is that the Respondents should pay him the wages for the period he had worked as EDBPM. As the Respondents have now submitted that they have already paid the wages amounting to Rs.3114/- for the period he had lawfully worked, there remains nothing more for being adjudicated in this O.A. In the circumstances, we dispose of this O.A. for having become infructuous. No costs.

VICE-CHAIRMAN

MEMBER (JUDICIAL)

Copy of order  
dt-26/3/04 issued  
to the counsel for  
both side.

W3/14  
S.O.

ADP  
31/3/04