

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

for admissions and hearing.

M
25/2/04

for admissions and hearing.

(Part. heard)

M
25/3/04

Am. 26.03.04.

Copy of, Supdt. Post office, Cuttack 20th Div.
(Copy No. F/CT-2/01-02/9)
17.03.04 addressed to A.K. Box
is kept on record.

B.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 (B)

Vice-Chairman (A)

Order dated 26.02.04.

Hearing in - Part

Adjourning to 26.03.04.

Vice-Chairman (B)

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., Angeswarpara Branch Office.

The facts of the case in short are that the applicant was appointed as E.D.B.P.M. of Angeswarpara 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 recruitment stating his physical condition. He had on this ground appealed to the Respondents to allow him to continue in the post of EDBPM and

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

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 However, vide order dated 10.8.2000, the Writ Application was withdrawn.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 Angeswar 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

77

not assume his office due to ~~infringement of the applicant~~ ~~intrangencies~~ 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. Inspite of the aforesaid, it has been stated by the Respondents, that the applicant has not still formally handedover the charge of the post office. However, the Respondents have closed the post office at Angeswarapara Bxg. 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.

12

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.

John
VICE-CHAIRMAN

J. O.
MEMBER (JUDICIAL)

Copy to order
of 26/3/04 issued
to the counsel for
both sides.

W.P.M.
S.O.

AM
31/3/04