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Registers

10  
21/9/01

For admissions and  
hearing.

Bench

10  
26/9/01

S. Com.

Order dated 27.9.2001

Heard Shri P.V.Ramdas, learned counsel for the petitioner and Shri D.K.Mallick, on behalf of Shri A.K.Bose, learned Senior Standing Counsel and also perused the records.

In this Original Application the petitioner has prayed for a direction to S.D.I.(P) (Res.3) to reconsider his case for the post of E.D.Packer, Seragada under Aska Head Office, along with other candidates. Respondents have filed their counter opposing the prayer of the applicant. No rejoinder has been filed.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. Admittedly the post of E.D. Packer, Seragada, which has now been redesignated as Gramin Dak Sewak Mail Packer became vacant due to superannuation of the earlier incumbent. For filling up of that post the departmental authorities issued public notice inviting applications from the general public, simultaneously moved the Employment Exchange for sponsoring names of suitable candidates. The Employment Exchange did not sponsor any name. In response to public notice 77 candidates including the petitioner applied for the post. Respondents have stated that the vacancy was unreserved and it was stipulated that physically handicapped person could also apply for the post. It is also the admitted position that the applicant is a physically handicapped person. But the problem is that along with his application applying for the post he filed the certificate of physical

disability, a copy of which has also been annexed to the O.A. as Annexure-2. In this certificate it has been mentioned by the C.D.M.O. that the certificate is valid for a period of only three years from the date of it's issue. This certificate having been issued on 8.9.1995 spent its force by 7.9.1998. It is also the admitted position that subsequently the petitioner had obtained another certificate showing his physical disability, which is at Annexure-3. This certificate has been issued on 7.7.2001 and is also valid for a period of three years. Respondents in their counter have stated that as the certificate furnished by the petitioner along with his application applying for the post in question was invalid and as the subsequent certificate was furnished by the applicant after the last date of receipt of applications was over, the same cannot be taken into consideration and the applicant will not be considered as a physically handicapped person. We note from the pleadings of the parties that the applicant is suffering from P.P.R.D.P.L which seems to be the validity of Post Polio disability. The fact that the original certificate expired by 1998 as the applicant did not renew <sup>it</sup> does not take away his status as a physically handicapped person. It is not that after expiry of the validity period of the certificate the applicant has to be taken as a physically able person. In consideration of this we dispose of this Original Application with a direction to the departmental respondents, particularly, Respondent No.3 to ~~re~~consider the

*S. J. M.*

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candidature of the applicant strictly in accordance with rules, as a physically handicapped person on the basis of certificate dated 7.7.2001. The above direction is subject to the condition that as of to-day the selection process to the post in question has not been over. We make it clear that if the selection process has already been over, then the respondents are not required to reopen the selection process only for considering the candidature of the petitioner; more so when he has not been prompt enough to file upto date physical disability certificate along with his application. *SJM*

With the above observation and direction, O.A. is disposed of, but without any order as to costs.

MEMBER (JUDICIAL)

*S. Venkateswaran*  
VICE-CHAIRMAN  
27.9.2001

Free copy of order  
dt. 27/9/2001 issued  
to the Counsel for  
both sides.

*R. M. S.O.*  
27/9/01