

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

On. dt. 19.7.04

Copies of order
prepared for counsel
for both std.

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Shri 01/07/04
S. S. (S)

Order Dt. 19.07.04

Shri Pravakar Mallick, presently working as Waterman-cum-Sweeper in Tirtol Sub-Post Office, has approached this Tribunal in this O.A. to issue a direction to the Respondents to regularize his services or to absorb him in any ED post or Group "D" post in the Department.

2. The Respondents, on the other hand, have submitted that the applicant is a part-time contingent paid Sweeper-cum-Waterman of Tirtol Sub-Post Office with effect from 01.05.1988. He was not appointed following the procedure laid down in this regard and therefore, his case cannot be considered along with the other candidates who had fulfilled the conditions of recruitment as laid down in DG Posts' Circular.

3. We have heard the Ld. Counsels for both the parties and have perused the records placed before us. The Respondents although had stated that the applicant being a part-time contingent paid Sweeper-cum-Waterman would not be entitled to the

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benefits/concessions as laid down in the DG Posts' Circular No.17-141/88-EDC & Trg. Dated 06.06.1988, it has not been disclosed whether the applicant is being paid his monthly remuneration from the exchequer or out of the contingency allowance of the Post Master. As no positive averments has been made in this regard, we would presume that he has been paid from exchequer and, therefore, the employment of the applicant is to be treated as that of a part-time casual labourer. That being the status of the applicant, he would be entitled to the benefits of the concession given in the DG Posts' letter dated 06.06.1988 and therefore, the Respondents would be well advised to consider his case as and when he would apply for appointment to any ED vacancy advertised by the Department. The objection raised by the Respondents in their counter that as his name has not been sponsored by the employment exchange, he can not be considered for appointment, does not have legal basis as the Tribunal has already held in a catena of cases that non sponsoring of candidature of a person can not be held as a disqualification when such a person ha

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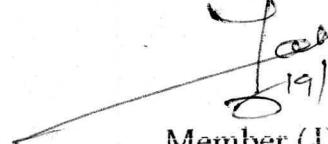
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years of prior service in the establishment where the regular vacancy has arisen. In this case, the applicant is working for over twelve long years. The Ld. Sr. Standing Counsel also submits that the Respondent Department would have no objection to consider the application of the applicant along with others should he participate in response to any vacancy notification for ED Posts.

This O.A. is disposed of with the above direction.

No costs.


Vice-Chairman 19/07/04


Member (J) 19/07/04