

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Dr. M 28.1.03

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Mr
29/03 Busu
for Admision
and Hearing
Mr
29/03 Busu

Dr. M. 1.4.04

Copies of order
prepared for counsel
for both sides.

Mr
6/4 SettlingOrder dated 7.02.03

Pleadings in this case having
been complete, put up this matter
for final disposal after hearing it
in the Ready list.

Vice-Chairman Tr
Y
Member(s)
S

Order dated 1.4.2004

Heard Shri S.S.Mohapatra, learned
counsel for the applicant and Shri S.B.Jena,
learned Addl. Standing Counsel for the Respondents
and perused the records.

This Original Application has been
filed by the applicant with prayer for annuling
the order at Annexure-1 with direction to
Respondents to take him back to the post of
E.D.D.A. at Badamundilo B.O.

The case of the applicant is that he was
appointed with effect from 31.10.1998 as E.D.D.A.
Badamundilo B.O. on provisional basis and his
service was terminated with effect from ~~31.10.98~~^{6.08.01}
on the plea that the regular holder of the post
i.e., Res.No.5 was being reinstated to that post,
in pursuance of the direction of this Tribunal
in O.A.449/99(disposed of on 26.2.2000). The
applicant seeks special indulgence of this
Tribunal to direct the Respondents-Department
to consider his regular appointment in the
Department as E.D.Agent/G.D.S. following the
ratio of the instructions issued by the D.G.Posts
vide its letter No.43-4/77-Pen. dated 18.5.1979

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and another circular bearing No.19-34/99-ED&Trg. dated 30.12.1999, by which the E.D.Agents/G.D.S. who would have worked for three years on provisional basis are to be considered for alternative employment. The Respondents, on the other hand, have opposed the prayer of the applicant on the ground that the applicant having been selected against a put off duty vacancy was rightly relieved of the charge since the regular incumbent was reinstated and that the reinstatement took place ~~on~~ in the direction issued by the Tribunal. Further that the applicant is not entitled to any benefit of the D.G.Posts circular referred to by him, because, he had not rendered more than three years continuous approved service for that purpose.

We see lot of force in the contentions of the Respondents. The applicant could not have challenged Annexure-1 as that order involved reinstatement of the regular incumbent of that post and the appointment of the applicant was conditional till either reinstatement of the regular incumbent or regular appointment to that post is made. Further, as the reinstatement of the regular incumbent took place on the direction of the Tribunal, the applicant can have hardly any grievance or right to seek indulgence of the Tribunal, as he has prayed for in this O.A. with regard to rehabilitation under the D.G.Posts instructions quoted by him, it is seen that he ~~has~~ not attained three years of continuous ^{and thus} approved service as E.D.D.A., his case does not fall within the ambit of the said instruction.

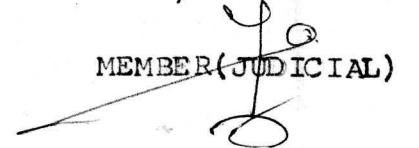
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That being the fact of the case, the applicant is not entitled to any relief sought for by him in this O.A. However, as he has worked for more than two years, we hope and trust, if he applies for any post of E.D./G.D.S. cadre under the Department, the Respondents would give due consideration to his application as per the prevalent rules/instructions in the Recruitment Rules on the subject.

With this observation, we dispose of the O.A.

No costs.


VICE-CHAIRMAN 1/4


MEMBER (JUDICIAL)