

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

For Admission

28
31.1.02

Brevel

10. 21. 12. 01

Last chance to file rejoinder has passed but no rejoinder has been filed. Further time cannot be allowed to file rejoinder. Pleadings are taken to be complete. Adjourned to 01.02.02 for hearing and final disposal at the stage of admission.

vice-Member
11/12
Member (D)

11. ORDER DATED 01-02-2002.

Learned Counsel for the applicant Mr. U.C. Patnaik and his associate are absent. There is also no request for adjournment. As in this case pleadings have been completed long ago, it is not possible to drag on the matter indefinitely more so in the absence of any request for adjournment. We have, therefore, heard Mr. Anup Kumar Bose, learned Senior Standing Counsel appearing for the Respondents and have also perused the records.

In this Original Application, the applicant has prayed for quashing the public notice dated 2.2.2001 at Annexure-2 inviting applications for the post of EDBPM, Babanpur BO and reserving it for ST candidate failing which for OBC and then OC category. His second prayer is for a direction to the Respondents to appoint the applicant in the said post.

Respondents have filed counter opposing

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the prayers of 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 applicant was appointed to the post of EDBPM, Babanpur BO on 12.9.86 and he worked as such till 3.1.87. He has thus, worked in that post for three months and 15 days. Respondents have stated and this has not been denied by applicant by filing any rejoinder that the applicant worked during the above period in a put off duty vacancy. It is also admitted position that the regular incumbent of the post of EDBPM, Babanpur BO was due to retire on 31.3.2001 and for filling up of the vacancy in a regular manner Departmental Authorities issued impugned notice dated 2.2.2001 at Annexure-2, reserving the post in the manner indicated earlier.

The first ground urged by the applicant in the pleadings in support of his prayer is that as a retrenched candidate, he should straightaway be appointed to the post without going through any process of selection. This contention is without any merit because according to Director General of Posts circular dated 18.5.97 gist of which has been printed at page 37 and 38 of Swamy's compilation of P Rules (7th edition) that efforts should be made to give alternative appointment to the Agents who were appointed provisionally and subsequently discharged from service due to administrative reason if at the time of discharge they have put in not less than three years of service. Their cases are to be kept

J. Sanyal,

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in a waiting list for the purpose of future absorption. In the instant case, the applicant has only put in three months and 15 days service and that too in a put off duty vacancy and therefore, he can not claim that he should be absorbed as a retrenched candidate. There is no provision to appoint a retrenched candidate straightaway to a vacant post. Therefore, this contention of the applicant is rejected. The next grievance of the applicant is that the post has been wrongly reserved for ST category. It is stated by him that in the villages coming within the jurisdiction of this ED Branch post office, there is no ST population and therefore, the post should not have been reserved for ST. This contention is without any merit because the residency requirement for appointment to the post of BPM has been done away with long ago in accordance with the decision of the higher Courts and now a person residing at a place outside the territorial jurisdiction of the Branch post office can apply and get selected subject to the condition that he should be prepared to take up residence in the post village and should be in a position to provide rent free accommodation for holding the post office. In view of this even if it is granted for argument sake that in these villages coming within the jurisdiction of this ED Branch post there are no ST population on that ground the reservation in favour of ST category can not be questioned. Respondents on the other hand have pointed out that level of representation of ST community in the rank of EDBPM is far below the required level of percentage. They have also mentioned that

S. M.

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Copies of order
dt. 1.2.02 issued
to the Counsel
for both side.

Ans
7/12
S. C.

my
7/12/02

in order to ensure the total reservation of SC/ST/
OBC etc. do not exceed 50% which is the upper limit,
as a matter of fact alternative vacancies are being
reserved for any ^{of the} ~~other~~ preferred categories and
accordingly this ^{post} has been reserved for ST
category. We find no illegality in the above approach
and this contention is therefore, held to be without
any merit and is accordingly rejected.

In view of our above discussions we hold
that the application is without any merit and is
rejected. No costs.

Manoranjan Mohanty

(MANORANJAN MOHANTY) 01.02.2002
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
1-2-2002

KNM/CM.