

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Copy of order dt. 20/4/04
issued to the counsel
for both side.

[Signature]
S.O.

Mr
22/4/04

For admission of
hearing.

Branch

Mr
5/10/04

Order dated 08.10.04

That Mr. K.C. Kaungo, Ld. Counsel
for the applicant and Mr. U.B. Mohapatra,
Ld. Sr. standing counsel for Respondents,
hearing is conducted. For the reasons
stated recorded separately, this OA
is disposed of. No costs.

[Signature]
Member B

Vk. Chairman.

O.A.No. 146 of 2003

ORDER DATED : 06-10-2004.

Non-consideration of the experiences
(gained by the Applicant, as a substitute
in Extra Departmental Organisation of the
Postal Department) while considering
the case of the Applicant for regular
appointment of EDDA/EDBPM /GDSBPM of
Dalkasoti Branch Post Office is the
subject matter of this Original Application.

It is the case of the Applicant
that he worked as a substitute for long
time in Dalakasati Branch Post Office
and while taking steps to fillup the
said post of EDBPM, the Respondents-
Department did not give any preferential
treatment to him (by keeping in mind the
experiences gained by him as a substitute)
and selected one Ranjan Kumar Parida,
merely because Shri Parida secured more
marks than the applicant in the qualifying

academic examination.

The Respondents by filing a counter placed on record the following judicial pronouncements, to show that the experience gained as a substitute are/were not available to give any weightage at the time of regular recruitment of EDAs:-

- i) O.A.No.338/97 disposed of on 20.05.2001;
- ii) O.A.No.554/92 disposed of on 15.1.1999;
- iii) OA No.318/98 disposed of on 17.10.2003;
- iv) High Court of Kamatak, Bangalore Judgment dated 18.08.2001 in Writ Petition Nos.21331-333/2000;

The Respondents have also placed on record the following three circulars of the Director General of Posts to substantiate their stand:-

- a) DG Posts, New Delhi letter No.19-6/2000-ED & Trg. dated 29.12.2000;
- b) DG Posts, New Delhi Letter No.17-107/2000-ED & Trg. dated 29.12.2000;
- c) DG posts, New Delhi letter No.17-115/2001-GDS dated 21.10.2002.

For the reasons well discussed in the aforesaid judgments of ~~this~~^{the} Bench of this Tribunal and that of Kamataka High Court, the experience gathered by the Applicant as a substitute is/was of no avail to him. The Circulars of DG of Posts New Delhi, relied upon by the Respondents, also amply clarify the position that substitutes have no right to get any benefits while seeking regular recruitment to ED posts/organisation of the Postal Deptt.

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Therefore, this case of the Applicant is bound to fail.

But before parting with this case our attention has been drawn to a circular No. 65-24/88-SPB.I, dated 17th May, 1989 of the Department of Posts of Govt. of India; wherein scope has been given to substitutes engaged in metropolitan cities and also in nonmetropolitan areas of India to be recruited as Gr. D staff in regular establishment of the Postal Department. The text of the said circular letter dated 17th May, 1989 is extracted/below for a ready reference:

"1. PART-TIME AND FULL-TIME CASUAL LABOURERS- It is hereby clarified that all daily wagers working in Post Offices or in RMS Offices or in Administrative Offices or PSDs/MMS under different designations (mazdoor, casual labourer, contingent paid staff, daily wager, daily-rated mazdoor, outsider) are to be treated as casual labourers. Those casual labourers who are engaged for a period of not less than 8 hours a day should be described as full-time casual labourers. Those casual labourers who are engaged for a period of less than 8 hours a day should be described as part-time casual labourers. All other designations should be discontinued.

Substitutes engaged against absentees should not be designated casual labourer. For purposes of recruitment to Group 'D' posts, substitutes should be considered only when casual labourers are not available. That is, substitutes will rank last in priority, but will be above outsiders. In other words, the following priority should be observed:-

- (i) NTC Group D Officials;
- (ii) EDAs of the same Division;
- (iii) Casual labourers (Full-time or part-time. For purpose of computation of eligible service, half of this service rendered

as a part-time-casual labourer should be taken into account. That is, if a part-time casual labourer has served for 480 days in a period of 2 years he will be treated, for purposes of recruitment, to have completed one year of service as full-time casual labourer).

- (iv) EDAs of other divisions in the same region;
- (v) Substitutes (not working in Metropolitan cities)
- (vi) Direct recruits through employment exchanges;

NOTE:- Substitutes working in Metropolitan Cities will, however, rank above No. (iv) in the list.

(G.I. Dept. of Posts Lr. No. 65-24/88-SPB.I, dated the 17th May, 1989).

Taking the help from the aforesaid circular/letter dated 17th May, 1989 of the Postal Department of the Government of India, Mr. K.C. Kanungo, learned Counsel appearing for the Applicant has raised a point that when the Government of India has taken a policy decision to give scope to substitutes (of Extra Postal Departmental organisation) to be recruited as Gr.D staff of regular Estt. of Postal Department, scheme should be framed by the Govt. of India to provide a channel for entry of extra departmental organisation substitutes.

Aforesaid submission of the learned counsel for the Applicant touches the policy matter of Govt. and this Tribunal, in our considered view, should go slow in giving any direction to the Govt. in that regard. However, while parting with this case we leave the matter to the Government in Department of

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Copy rendered dt. 6/10/04
issued to the Counsel
for both side

MS
3/11/04

h
3/11/04
S. O.

posts to explore the possibility of providing/making a scheme so that the substitutes in Extra Departmental organisation of the Postal Department can get a chance to be recruited with some relaxation in GDS establishment Establishment.

With the aforesaid observations and directions, this O.A. is disposed of. No costs.

[Signature]
Vice-Chairman
[Signature]
Member (Judl.)
06/10/04