

Order dated/3.10.2009

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

And

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

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Heard Shri D.P.Dhalsamant, the learned counsel for the applicant and Shri R.C.Swain, the learned Additional Standing Counsel for the Respondents.

2. From the records it is seen that the applicant was provisionally appointed as EDDA (now GDSDA), Sisupalgarh B.O. His services were regularized w.e.f. 30.6.2008. Subsequently, on review, the appointment of the applicant having been found irregular, was terminated. Being aggrieved, the applicant had filed OA No. 280 of 1999 challenging the termination of his services and on the basis of the order of the Tribunal he was taken back to service on 28.8.1999. The Tribunal by order dated 15.3.2000 allowed OA No.280 of 1999 by quashing the order of termination giving liberty to the Department to issue show-cause notice to the applicant and take a decision in the matter after considering the applicant's reply. In compliance with the Tribunal's order dated 15.3.2000, the Respondent-Department issued notice to the applicant to show cause against the proposed order of termination

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O.A.No. 830 of 2005

of his services. The applicant, while submitting his reply to the show-cause notice within the time limit, filed OA No.52 of 2004 . The Tribunal by order dated 1.4.2005 allowed the said O.A. by quashing the notice issued by the Department to the applicant to show cause against the proposed order of termination of services. The Department challenged the Tribunal's order dated 1.4.2005 by filing W.P. ( C ) No.1638 of 2005 before the Hon'ble High Court. The Hon'ble High Court by order dated 2.5.2006 stayed the operation of the Tribunal's order dated 1.4.2005. The said writ petition is still pending before the Hon'ble High Court. When the very appointment of the applicant and termination of his services as GDSMD are the subject-matter of W.P. ( C ) No.1638 of 2005, which is still pending before the Hon'ble High Court of Orissa, the Respondent-Department's action in not publishing the result of examination for promotion to the Postman cadre and communicating the marks of the applicant therein cannot be held unjustifiable in as much as the eligibility of the applicant for appearing at the Postman Examination has a bearing on the outcome of the above Writ Petition too and that is how the applicant was provisionally permitted to appear at the said

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examination. Therefore, it is unrealistic on the part of the applicant to question a point the very basis of which is not yet settled and thus, the inference that could be drawn is that whatever right would accrue on the applicant to agitate the matter, as has been in the present O.A., only after the disposal of the Writ Petition by the Hon'ble High Court. In this view of the matter, the O.A. being devoid of merit is liable to be dismissed. However, it is made clear that the result of the applicant in the examination in question shall be published only if the W.P. ( C ) No.1638 of 2005 is decided in his favour by the Hon'ble High Court, provided further that the applicant is found eligible for appearing at the Postman Examination.

3. With the above observation, the O.A. is disposed of.  
No costs.

Chatt  
(C.R.MOHAPATRA)  
ADMINISTRATIVE MEMBER

K. APPAN  
(K.THANKAPPAN)  
JUDICIAL MEMBER