

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

On 26. 16. 8.04

for hearing

beard

On 21. 24.8.04

Captain is to be heard
and prepared for
counsel for both
sides.

11/9/04
Sc (3)

16.08.04

At request learned counsel
for the applicant, call on
24.08.04

Vice-Chairman
member (S)

Order dated 24.8.2004

Heard the learned counsel of both
the sides and perused the materials placed on
record.

Applicant (Haripada Bar) at present
working as EDMC/GDS MC in Rupsa B.O. under
Balasore H.O. has filed this O.A. being
aggrieved by the inaction on the part of the
Respondents to transfer the vacancy meant for
the departmental quota to the EDAs outsider
quota for the year 1991, as per ~~the~~ rules.

The admitted facts of the case are
that the applicant came out successful in the
Postman Examination held on 29.12.1991 under
S.C. quota. It is also admitted that Res.No.3
had recommended his case for promotion to the
grade of Postman to Res.No.1 vide his letter
dated 3.2.1992 (Annexure-R/2) on the ground
that as no ST candidate was available under
the outsider quota and there was one post

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under SC quota available under departmental slot, the vacancy may be given to outsider SC for filling up at least one of the two vacancies available in his Division. The request of Res.No.2 was not considered favourably. This matter, however, was challenged by the applicant earlier in O.A.No.668/92, which was decided by this Tribunal on 2.5.1998. That O.A. was dismissed on the ground that the applicant was ^{able to} not establish his case. ~~xxx that~~ The learned counsel for the applicant in the instant O.A. has brought to our notice the provision in the departmental rules (Annexure-4), which reads as under :

"... As per the existing orders, the unfilled vacancies of departmental quota will be added to the quota for EDAs. In future the unfilled vacancies of departmental quota will be added 1/2 of the quota meant of ED Agents on merit only".

It appears that the said rule was not placed before us earlier while deciding O.A.668/92, which was disposed of on 2.4.1998. It is too late now in terms of limitation to consider the matter, apart from the fact that this O.A. is hit by the principles of constructive res judi cata. In this view of the matter, while we dismiss the O.A., we would observe that this will not stand in the way of the Respondents to consider the case of the applicant if he appears in the ensuing departmental examination for the post of Postman. No costs.

[Signature]
VICE-CHAIRMAN

[Signature]
MEMBER (JUDICIAL)