

ORDER DATED 22<sup>nd</sup> AUGUST, 2008

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)  
Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Mr. Arun Kr. Misra, Ld. Counsel for the applicant and Mr. S. Barik, Ld. Counsel for the Respondents.

2. The applicant approached this Tribunal with the following prayers:-

- (i) That necessary order/orders may kindly be passed declaring that the appointment of Respondent No.4 is illegal since no process of selection has been followed pursuance to the earlier direction of this Hon'ble Tribunal and accordingly the appointment order issued in favour of Respondent No.4 on 18.06.07 by the Respondent No.3 may kindly be quashed.
- ii) Further direction/directions may kindly be passed to hold fresh selection for the post of E.D.B.P.M. for Rudrapur Branch Post Office.”

3. From the facts averred which has led to filing of this O.A are that a public advertisement had been published during the year 1999 i.e. on 28.10.1999 for filling up the post of E.D.B.P.M. Applications received by the authorities were scrutinized. However, the applicants in O.A No.551/01 and 199/02 having not been selected approached this Tribunal praying to quash the selection and to consider <sup>them</sup> ~~him~~ for selection.

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By order dated 16.04.04 this Tribunal found that the selection made by the authorities was not in accordance with the Rules and hence ordered as follows:

“a) Sri Patitapaban Das, applicant in O.A. 551/2001 has no right to be appointed straightway as EDBPM, Rudrapur BPO, on the strength of the circular dated 12.09.1988, and he has to take his chance along with others.

b) That the candidature of Sri Patitapaban Das should not be rejected on the technical ground of his application not having been routed through proper channel and the respondents should consider his candidature along with other candidates.

c) The case of Ms. Rajashree Satpathy will also be considered along with that of Sri Patitapaban Das amongst others.

d) The Respondents are directed to finalise the selection within a period of two months from the date of receipt of the copy of the order.”

4. The said order had been assailed before the Hon'ble High Court of Orissa by the applicant of O.A. No.551/01 in W.P. (C) No.6158 of 2004. Hon'ble High Court heard the matter and held as follows:-

“Since we hold that there is no error in the order of the Tribunal, we therefore, hold, that the selection process, which has taken place, should be given effect to. The interim direction, which was passed by this Court on 13.08.2004, is vacated.

In view of the aforesaid discussions, we find that there is no error in the findings of the Tribunal. Accordingly, the findings of the Tribunal are upheld.

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The Writ Petition is dismissed. No cost."

5. It is the case of the applicant that he had filed an application for the post of EDBPM, Rudrapur BPO but having not been considered, for the said post has approached this Tribunal with the prayers referred to above.

6. The Respondents in their counter have specifically stated that the applicant had not applied for the post of EDBPM, Rudrapur with respect to public notification nor his name was sponsored by the Employment Exchange. To substantiate their stand, the Respondents have produced the check sheet at Annexure-R/4.

7. We have considered the submission made by the Ld. Counsel for the applicant and perused the materials placed on record. We find that applicant had sent an undated application vide Annexure-A/4, which is probably at the judgement of the High Court stating to issue public notification and requesting Senior Postal Superintendent, South Division, Cantonment, Cuttack to consider him for the post. But the fact remains that the averment of the Respondents in their counter that the applicant had not submitted any application pursuant to public notification has not been controverted by the applicant. Therefore, it is to be held that the applicant had never applied for the post.

(b)

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In view of the above, the Original Application is held without any merit. Accordingly the O.A is dismissed. No costs.

*Chandy*  
Member (A)

K Cappan  
MEMBER (J)

