

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.1173 of 1996.

Allahabad ; this the 3rd day of August 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.  
Hon'ble Mr. D.R. Tiwari, A.M.

Chandra Kishore S/o Sri Pancham Lal, Village & Post  
Gaura (Amauli), District Fatehpur.

.....Applicant.

(By Advocate : Sri S Dwivedi)

Versus.

1. Union of India through the Post Master General  
U.P. Lucknow.
2. The Director Postal Services, Kanpur.
3. The Superintendent of Post Offices, Fatehpur  
Division, Fatehpur.
4. Sri Ram Kishore Shukla, S/o Sri Ram Avtar, Extra  
Departmental Branch Post Master, Post Office Gaura  
(Amauli) District Fatehpur.

.....Respondents.

(By Advocate : Sri S.C. Tripathi/  
Sri M.K. Upadhyaya)

O R D E R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

The facts, giving rise to this O.A., are that 4th respondent was appointed as Extra Departmental Branch post Master (in short E.D.B.P.M.) in the Branch post office Gaura (Amauli) District Fatehpur, by Supdt. of post offices vide order dated 4.4.1991. The said order is sought to be quashed by means of the present O.A. at the behest of the applicant who was also one of the candidates <sup>✓</sup> for appointment <sup>✓ on the post ✓</sup> in question, but failed to get appointment. It appears that the appointment order dated 4.4.1991 was cancelled by the superior authority vide order dated 4.7.1991, which order came to be quashed by the Tribunal vide order dated 8.3.1996 in O.A. no. 681 of 1991 in re. Ram Kishore Shukla Vs. Union of India & Ors. While quashing the order dated 4.7.1991, the Tribunal had observed

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that since Ram Kishore Shukla was continuing on job in terms of the stay order, he must have ~~been~~<sup>9</sup> received his wages regularly. The Tribunal further observed that the respondents would be free to take fresh action keeping in view the complaints for irregular appointment giving proper opportunity to the applicant of the said O.A., if it is considered that the appointment was made violating the extant rules in spite of the observations made with regard to application of the instructions dated 10.5.1991. It may be observed that the applicant, herein, was not a party to the said O.A. Counsel for the 4th respondent, who was the applicant in the above-mentioned O.A., has contended that the instructions dated 10.5.1991 would not have ~~been~~<sup>2</sup> retrospective effect and, therefore, it will not affect the appointment already made prior to the issuance of the said instructions. It has been submitted on behalf of the respondents that the present O.A. is not maintainable in view of the order dated 8.3.1996 passed by the Tribunal in O.A. no. 681 of 1991. It has also been submitted on behalf of the respondents that if the applicant <sup>of the</sup> was aggrieved with any/observation made in its order dated 8.3.1996 in O.A. no. 681 of 1991, the only remedy open to ~~him~~<sup>was 2</sup> to file Review application, which would be maintainable in view of the Full Bench decision of the Tribunal reported in Full Bench Judgments of C.A.T. Vol.I page 136 in the case of John Lucas & Another Vs. Additional Chief Mechanical Engineer S.C. Railway. It has also been submitted by the 4th respondent <sup>ordinarily</sup> that the Tribunal should not <sup>a</sup> interfere in ~~the~~<sup>in like the one in hand</sup> matter/in view of the fact that the 4th respondent has been continuing since long. He has also placed reliance on the decision of Buddhi Nath Choudhary & others Vs. Abahi Kumar & Ors. (2001 SCC (L&S) 589).

2. Having heard the counsel for the parties, <sup>and</sup> ~~having~~<sup>also</sup> regard to the facts and circumstances of the case and ~~keeping~~ in view the observations made by the Tribunal in its earlier judgment dated 8.3.1996, we are of the view that the

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present O.A. cannot be dismissed as not maintainable. The applicant, herein, was admittedly not a party to the afore-stated O.A., which was decided by order dated 8.3.1996 and the applicant does not seek and modification to the said order. However, we are not persuaded to enter into merits of the case for the reason the Tribunal has given liberty to the respondents vide order dated 8.3.1996 to take a fresh decision in accordance with law after giving an opportunity to the applicant therein. We are, therefore, of the view that ends of justice would be best attained if this O.A. is disposed of with a direction that incase the applicant prefers a representation to the competent authority, the later shall decide the same after affordeding opportunity to all concerned including the 4th respondent within a period of four months from the date of communication of this order, by passing a reasoned and speaking order.

3. Accordingly, the O.A. stands disposed of as above with no order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

GIRISH/-