

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 4th day of December, 2000

C O R E A M :- Hon'ble Mr. V.K. Majotra, Member- A.  
Hon'ble Mr. Rafiq Uddin, Member- J.

Orginal Application No. 1354 of 1996

Pramod Kumar S/o Sri Chandrila Prasad  
Extra Departmental Packer, Elgin Mill Post Office  
R/o 11/ 2569, Sootergang, Kanpur.

..... Applicant

Counsel for the applicant :- Sri K.C. Sinha

V E R S U S

1. Union of India through  
The Post Master General, Kanpur.
2. Director, Postal Services, Kanpur.
3. Senior Superintendent of Post Offices,  
Kanpur.

..... Respondents.

Counsel for the respondents:- Sri S.C. Tripathi

O R D E R (oral)

(By Hon'ble Mr. V.K. Majotra, A.M.)

The applicant has challenged the order dt.  
19.01.96 (annexure A- 1) whereby his application  
dt. 07.01.96 regarding fixation of seniority from

the date of appointment order has been rejected. He has also assailed Annexure A- 2 dt. 18.10.96 whereby his representation dt. 24.02.96 on the same subject has also been rejected.

2. The applicant was given appointment as Extra Departmental Stamp Vendor (E.D.S.V.) at Elgin Mill Post Office on 10.06.89 which was cancelled by the respondents on 14.09.89. The applicant agitated against cancellation of his appointment in O.A No. 885/89 which was decided on 27.04.95 (annexure A- 5). It was held as follows :-

" The order (annexure A-1) dated 14.09.89 cancelling appointment of the petitioner is therefore quashed. As a consequence thereof, the respondents are directed to give effect to order dt. 10.06.89 (annexure A- 2) within a period of two months from the date of communication of this order. The petition is allowed."

3. The respondents incompliance of Tribunal's order dt. 27.04. 95 allowed the applicant to join as E.D.S.V, Elgin Mill Post Office with immediate effect. The applicant has sought direction for quashing of orders dt. 19.01.96 and 18.10.96 and also that the applicant should be accorded all benefits and privileges of continuity of services since June, 1989 when he was only appointed as E.D.S.V. He has further sought a direction that he should be accorded seniority since June, 1989 by placing his name between Sl. 111 and 112 of the seniority list, so that he can be considered for promotion to group 'D' cadre taking into account his seniority from 1989.

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4. Respondents have refuted the claims of the applicant contending that the applicant has no support of the rules and regulations in connection with fixation of seniority on the basis of the issue of his appointment order. According to the respondents the seniority is reckoned from the date of joining and not from the date of appointment order.

5. We have heard learned counsel of both sides and gone through the material available on record.

6. The learned counsel of the applicant has stated that incompliance of court's order dt. 27.04.95 in O.A No. 386/99 the respondents allowed the applicant to join as E.D.S.V, Elgin Mill Post Office and also cancelled the earlier order of the respondents dt. 14.08.89 by which they had cancelled the applicant's appointment. The applicant has joined as E.D.S.V on 04.10.95

7. According to the applicant's counsel the applicant made representation dt. 07.01.96 (Annex- 8) seeking fixation of seniority w.e.f. 10.06.89. He has averred that if seniority is not given to him w.e.f his appointment order it will adversely effect chances of his promotion in group 'D' cadre.

8. Learned counsel of the respondents has contended that in the earlier O.A No. 386/89 the applicant had only sought to set-aside ~~the~~ the order dt. 14.08.89, cancelling his appointment. He had not sought any relief relating to fixation of his seniority w.e.f. the date of his appointment. He further brought to our notice ~~to~~ order dt. 27.04.95 of this Tribunal

in O.A No. 886/89 contending that the court had only directed the respondents to give effect the order dt. 10.06.89 within a period of two months from the date of communication of this order. Order dt. 10.06.89 of the respondents related to applicant's appointment as E.D.S.V (annexure A- 6). The respondents have allowed the applicant to resume his duties as E.D.S.V. The court had not ~~any~~ <sup>u</sup> way granted any relief regarding allocation of seniority of the applicant w.e.f. the date of appointment order. Thus neither the applicant had asked for fixation of his seniority w.e.f the date of his appointment order nor had the court allowed such benefit to the applicant vide order dt. 27.04.95. The learned counsel of the respondents has further supplementd that the department has issued clear instructions regarding fixation of seniority on E.D.S.V vide D.G. letter dt. 27.01.81 (C.A- 5) which reads as follows :-

"i) The seniority of an E.D.A will be determined with reference to the date from which an official is continuously working as E.D.A ignoring all spells of absence. In the case of unauthorized absence, if the absence is not regularized by grant of leave, it will constitute a break in service and only the post-break service period will count for seniority.

ii) In case an E.D.A, who is subsequently appointed as Class IV, appears in the test of Postman along with other E.D.As, his seniority will be determined on the basis of his date of appointment as E.D.A.

iii) The past service of an E.D.A in case of his discharge from service on upgradation or abolition of the post and who was offered alternative appointment within one year, will be counted from the date of his initial appointment

(not continuous appointment). The interruption may be ignored and treated automatically condoned. This concession will be applicable only if the E.D.A was regularly appointed in a particular post (and not worked as substitute for some time and got regular appointment later)"

The learned counsel pointed out that the claim of the applicant is not covered <sup>by</sup> any one of the departmental decisions relating <sup>to</sup> seniority quoted above.

9. We are inagreement with the learned counsel of the respondents that the applicant had not sought reliefs relating to seniority <sup>from</sup> effective <sup>to</sup> from the date of appointment order of the applicant. It is also clear from the order dt. 27.04.95 in O.A 386/89 that the court had only asked the respondents to give effect <sup>to</sup> the appointment of the applicant and not given him any benefit relating to his seniority on the basis of <sup>relevant</sup> date of appointment. The instructions relating to seniority of the E.D.As <sup>as extracted above</sup> ~~as per condition of the~~ <sup>to</sup> ~~state~~ <sup>responsible</sup> that seniority has to be accorded from the date of joining and not from the date of appointment order. Although the applicant has ~~so far~~ pressed <sup>his claim to</sup> keeping in view the court's order and the rules relating to the seniority we are not in a position to help the applicant in fixing the seniority from the date of his appointment order. Orginal application is accordingly dismissed.

10. There will be no order as to costs.

*Ratnadev*  
Member- J.

*Umapathi*  
Member- A.