

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO. 1510 OF 2001

ALLAHABAD THIS THE 2nd DAY OF May, 2008

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J
HON'BLE MR. N.D. DAYAL, MEMBER-A

Raj Kumar Singh, S/o late Ram Deo Singh, R/o Pura Parihan Post Paharpur, District Pratapgarh, local address 805/186/7D Sobhabatiabagh, Allahabad

.....Applicant

(By Advocate Shri A. Tripathi)

V E R S U S

1. Union of India through its Secretary, Department of Posts, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Director, Postal Services, Allahabad Region, Allahabad.
3. Sr. Supdt. Of Post Offices, Pratapgarh Division, Pratapgarh.
4. Sub Divisional Inspector of Post Offices, Lalganj Sub Division, District Pratapgarh.

.....Respondents

(By Advocate: R.K. Srivastava)

O R D E R

N.D. DAYAL, MEMBER-A

The learned counsel for the applicant has brought to notice that the applicant had been working initially as EDDA, Kaithora for about one year and thereafter in the vacancy of Sri Rameshwar Prasad Mishra, who had been put off duty but was reinstated for a short period and thereafter dismissed from service. As a result thereof, the applicant had worked in different spells and the

last spell is stated to have commenced from 25.2.1999.

2. It appears that certain observations were passed on 5.12.2001 by DPS, Allahabad that the applicant should not be treated as retrenched employee and he should have put in not less than three years continuous service in one stretch and not in broken spells. The SSPOs was asked to examine the issue. The SDI {P} terminated the services of the applicant by order dated 11.12.2001. The applicant approached the Tribunal by the present O.A. 1510 of 2001 on 13.12.2001, wherein on 16.1.2002 the Tribunal considered the submissions made and noted that the applicant was working since 25.2.1999 and if there was any irregularity in his appointment it should have been taken notice of immediately or in any case within six months at the time of inspection of the Post office. No explanation was found as to why this irregularity was not noticed for more than two years. Neither PMG nor SSPO took any action against the SDI who committed the illegality. In such facts and circumstances and as the permanent incumbent had been dismissed from service, the Tribunal felt that the applicant deserved protection. The respondents were directed to allow the applicant to continue on the post till regularly selected candidate became available.

3. We are informed by the learned counsel for the applicant that the applicant was asked to hand over charge on 21.11.2003, but once again on 31.12.2003 he was brought on duty with the department. He submits that the applicant has been working continuously on provisional basis since then and has now completed over three years of continuous service without broken spells. He points out that it was noted by the Tribunal in O.A. no. 1509 of 2001

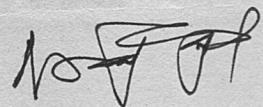
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decided on 3.4.2003 in the case of Suresh Chandra Pandey Vs. U.O.I. & Ors, that as per DGP&T letter dated 18.5.1979 contained in the GDS Service Rules the applicant was entitled to appointment accordingly till regular selected ^{on} on the post where he is engaged and should be allowed to continue to work upon it. It is, therefore, urged that the respondents should consider the applicant for appointment in view of his having worked continuously for three years as GDS in accordance with their own instructions. It is further prayed that the applicant is already working against a vacant post and may, therefore, be adjusted against the same.

4. The learned counsel for the respondents does not dispute that as on date the applicant has worked provisionally for more than three years on a continuous basis. But, he has no instructions as to whether there is any initiative to make regular selection or as to whether the applicant is being considered for appointment in terms of the DGP&T letter dated 18.5.1979.

5. In view of the above, the order dated 11.12.2001 is set-aside. The respondent nos. 2 and 3 are asked to examine the case of the applicant in accordance with the Rules keeping in view the observations made above and take a decision by speaking order ^{on} _A extending alternative employment, if feasible on the same vacant post of GDS where he is working, in terms of the instructions dated 18.5.1979. The applicant be communicated the decision within a period of three months from the date of receipt of a certified copy of this order. Till such time a regularly selected candidate becomes available to the respondents, the applicant should be continued on vacant post where he is presently working.

5. The O.A. stands disposed of in the above terms
with no order as to costs.



MEMBER-A



MEMBER-J

GIRISH/-