

OPEN COURT

Central Administrative Tribunal Allahabad Bench  
Allahabad.

Allahabad This The 16<sup>th</sup> Day Of October, 2008.

ORIGINAL APPLICATION NO. 1463 OF 2005.

Present:

Hon'ble Mr. A.K. Gaur, Member (J)

Khacheru Singh, son of late Ram Singh, Resident of  
Mohan Kutee near Path, District Bulandshahar.

.....Applicant

By Advocate: Sri Avnish Tripathi

Versus

1. Union of India through its Secretary, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Director General of Post, Ministry of Communication, Dak Bhawan Sansad Marg, New Delhi.
3. Chief Post Master General, U.P. Circle, Hazratganj, Lucknow.
4. Post Master General, Agra Region, Agra.
5. Superintendent of Post Offices, Bulandshahar Division, Bulandshahar.

.....Respondents

By Advocates: Shri Rakesh Kumar Srivastava

ORDER

I have heard Shri Avnish Tripathi, Advocate, counsel for the applicant and Shri R.K. Srivastava, Advocate, counsel for the respondents.

2. Through this OA applicant has claimed following main relief (s):-

"(i) to issue an order rule or direction quashing and setting aside the impugned order dated 19.9.2000 passed by the respondent NO.2 (Annexure no. A-1 to the Compilation no. part I to this Original Application).

(ii) to issue an order rule or direction in the nature of mandamus directing the respondents to pay the bonus to the applicant at the same rate as paid to regular Group D employee in the department as the same was paid to the applicant since 1992".

3. Shri A. Tripathi, learned counsel for the applicant has placed much reliance on the decision of Hon'ble

Apex Court rendered in 1990 S.C.C (L & S) page 606, Jagriti Majdoor Union Versus Mahanagar Telephone Nigam Ltd.

4. Learned counsel for the applicant would further contend that the impugned order dated 19.9.2000 has already been quashed by this Tribunal in O.A. NO.1111/2000, Satya Pal Singh Vs. Union of India and others. This Tribunal after careful analysis of the case has observed as follows:-

*"As the Hon'ble Supreme Court held that after rendering three years continuous service with temporary status casual labourers shall be treated at par with temporary Group 'D' employee in the Department of Posts and thereby be entitled for such benefits as are admissible to Group 'D' employee on regular basis. The G.O. issued on 26.9.2000 cannot be justified. In our opinion, the impugned order dated 19.9.2000 is illegal and void which directs payment of bonus at the lesser rate and direction for recovery is illegal and cannot be sustained. The O.A is accordingly allowed. The order dated 19.9.2000 is quashed. The respondents are directed to continue to pay the bonus to the applicant at the rate specified in the order dated 8.12.1992, which was passed on the basis of the judgment of the Hon'ble Supreme Court. There shall be no order as to costs".*

5. Learned counsel for the applicant has vehemently contended that no show cause notice or opportunity has been granted to the applicant before issuing recovery order. He invited my attention to para 34 of the counter reply, wherein, it is clearly seen that the respondents have admitted that no show cause notice was issued to the applicant. Against the judgment of this Tribunal rendered in Satya Pal Singh (supra) dated 21.3.01, Union of India has finally preferred Special Leave Petition before Hon'ble Supreme Court and the same has been dismissed.

6. Learned counsel for the respondents contended that the applicant has not completed 3 years of regular

service and as such he is not entitled to get the benefit.

7. Having heard counsel for the parties, I am firmly of the view that it is not in dispute that the law laid down by the Hon'ble Supreme Court in the case of Jagriti Majdoor Union (supra) still holds good and therefore, I do not see any reason to defer with the view taken by the Division Bench of the Tribunal, wherein after following the law laid down by the Hon'ble Supreme Court in the case of Jagriti Majdoor Union (supra), the Tribunal directed respondents to pay bonus to Group 'D' employee. It is also seen that the Order passed by Division Bench of the Tribunal has been upheld by the Hon'ble High Court. Against which S.L.P ~~has been~~ filed by the Union of India has been dismissed.

8. In view of the aforesaid observation, I hereby allow the O.A. The impugned order dated 19.9.2000 is quashed and set aside. The Respondents are directed to refund the amount to the applicant, if any recovered earlier. The direction given in Satyapal Singh's case (supra) shall mutates mutandi apply to the present case.

No costs.

  
(A.K. Gaur)  
Member (J)

Manish/-