

(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

HON'BLE MR.A.K. GAUR , MEMBER (J).
HON'BLE MR. S.N. SHUKLA, MEMBER (A).

Original Application Number. 873 OF 2005.

ALLAHABAD this the 06th day of **August**, 2009.

Pradeep Kumar Singh, S/o Sri Lali Singh, R/o Village Ahirauli, Post Office- Pachawa,
District- Sant Kabir Nagar, (Now Basti).

.....Applicant.

VER S U S

1. Union of India through the Secretary, Department of Post, Ministry of Post and Telecommunication, Dak Bhawan, New Delhi.
 2. The Superintendent of Post Offices, Basti Division, Basti.
 3. The Assistant Superintendent, Post Office, Basti, East Sub Division, Basti.
-Respondents

Advocate for the applicant: Sri Ashish Srivastava
Advocate for the Respondents : Sri S. Srivastava

ORDER

(Delivered by Hon'ble Mr. A.K. Gaur, J.M)

It is seen from the record that earlier the applicant had filed Original Application No. 116/2004, which was disposed of finally by this Tribunal vide judgment dated 19.08.2004/Annexure A-6 of O.A in following terms:-

".....The present O.A seeks issuance of a direction to the respondent to permit the applicant to work on vacant post of GDS (MP) till appointment of regularly selected candidate to the post in question. It cannot be gain said that the applicant being a substitute has no right to continue on the post and the order contained in the letter dated 4.08.2003 is in nature of policy decision and the subsequent letter dated 05.09.2003 has been issued pursuance to the said policy decision. No exception can be taken to these orders. Accordingly the O.A is liable to be dismissed. However, nothing herein will prejudice the right, if any, of the applicant to

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seek alternative appointment under rules and , in case, the applicant files a representation in this regard , the same may be considered and decided by the competent authority positively within a period of three months from the date of receipt of representation alongwith copy of this order.”

2. In pursuance of the directions of the Tribunal, the applicant preferred representation taking all possible grounds in support of his grievance. The competent authority after careful analysis of the points raised by the applicantⁱⁿ his representation, vide its order dated 20.01.2005 rejected the said representation. Aggrieved the applicant has filed the instant Original Application.

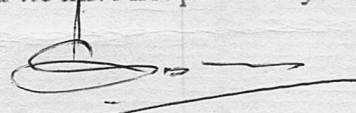
3. Learned counsel for the respondents by filing the Counter Reply denied the submissions made in the O.A and submitted that in view of letter issued by the D.G (Posts) dated 21.10.2002/Annexure CA-1, the claim of the applicant is not legally maintainable in the Tribunal . Learned counsel for the respondents further submitted that in the said letter, it has clearly been observed that there is no need for further engagement of substitute on any post of G.D.S. Learned counsel for the respondents would further contend that the applicant was never engaged after observing recruitment process for G.D.S and he had been engaged as substitute on the risk and responsibility of his father, the regular incumbent as G.D.S MC/MD. Respondents have specifically stated in their Counter Affidavit that the decision taken by the respondents is as per the instructions of D.G. (Posts)'s, New Delhi letter dated 14.08.2003/Annexure CA-2.

4. Learned counsel for the applicant on the other hand submitted that some of the employees have been absorbed by the respondents on the post of GDS in pursuance of the direction of this Tribunal. Learned counsel for the respondents submitted that no such direction has ever been given by the competent authority.

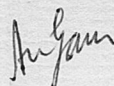
5. Having heard learned counsel for both sides at considerable length, we do not find any illegality in the order. However, in case, if some of the similarly situated persons are still working, the case of the applicant may also been looked into sympathetically in accordance with rules.

6. With the aforesaid observation, the O.A is disposed of finally with no order as to costs.

Be it noted that we have not passed any order on merits of the case.



MEMBER- A.



MEMBER- J.

/Anand/