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Reserved

**CENTRAL ADMINISTRATIVE TEE
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO. 92 OF 2005

ALLAHABAD THIS THE 25/1 DAY OF JANUARY, 2007

HON'BLE MR. M. JAYARAMAN, MEMBER-A

Rai Kumar Pandev, S/o Sri Hira Lal Pandev, R/o
Village Phuphwar, District Kanpur.

.....Applicant

(By Advocate Shri S.K. Bahadur)

V E R S U S

1. Union of India, through Secretary, Ministry of Communication, Department of Posts, New Delhi.
2. The Post Master General, Kanpur Region, Kanpur.
3. The Director Postal Services, Kanpur Region, Kanpur.
4. The Sr. Superintendent of Post Offices, Kanpur City Division, Kanpur.
5. The Assistant Superintendent of Post Offices, Kanpur City Division, Kanpur.

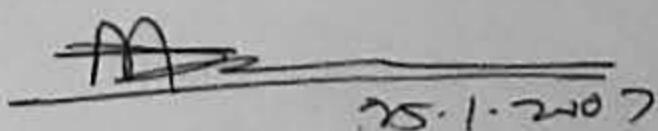
.....Respondents

(By Advocate: Sri S. Singh)

O R D E R

Heard Sri S.K. Bahadur, learned counsel for the applicant and Sri R.C. Shukla proxy counsel for Sri Saumitra Singh, counsel for the respondents.

2. The issue arising for decision in this O.A. lies in a very short compass, namely, the applicant seeks a direction to be given to the respondents to consider his claim for retirement pension since


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according to him he has completed 10 years of service.

3. The brief facts of the case, herein, are that the applicant was promoted from E.D. Agent (GDS), Phuphwar Branch Office to Group 'D' cadre vide order dated 12.9.1994 issued by the office of the Sr. Superintendent of Post Office, Kanpur City Division, Kanpur. In pursuance of the aforesaid order, the Assistant Supdt. Of Post Offices (East) Sub-Division, Kanpur City, Kanpur posted the applicant as Group 'D' at Kanpur West Sub Post Office, Kanpur vide order dated 19.9.1994. However, when the applicant went to the Sub Post Office, Kanpur, he was not allowed to join and was directed to approach the respondent no.5 namely ASPO, Kanpur. The applicant complied the aforesaid order and he was re-directed to join at Karbgwan Sub-Post office. In compliance of the aforesaid direction, the applicant joined as Group 'D' at Post Office Karbigwan Kanpur on 5.10.1994. The applicant retired from service on 30.6.2004 and claimed retiral benefits. He was told that since he has not completed 10 years of required minimum service before retirement, he was not eligible for pension. Hence this O.A.

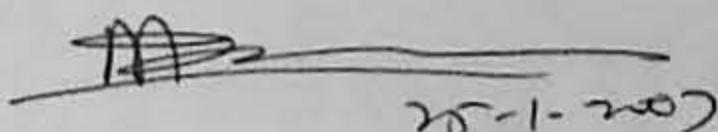
4. The main plank of the applicant's argument is that from 19.9.1994 to 30.6.2004, total period comes to 9 years, 9 months and 23 days. In terms of Rule 49 (3) of the CCS (Pension) Rules, 1972 (in short

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Rules of 1972 fraction of a year equal to three months and above should be treated as completed one half year and so the period of nine months in his case should be treated as two half years. Thus, he would be satisfying the minimum requirement of length of service of 10 years. He has cited the Government of India's letter dated 30.10.1983 as printed in the Swamy publication. He has further drawn my attention to Rule 22(3) and sought condonation of delay, so the period could be counted from 19.9.1994 instead of 5.10.1994 since he was not responsible for the delay in issuing of the revised posting order. He has also enclosed the extract of Rule 22(3) of the Rules of 1972.

5. The respondents have opposed the above plea of the applicant by saying that the applicant was promoted from E.D. cadre to Group 'D' cadre vide office letter dated 12.9.1994 and he was posted as Group 'D' Kanpur West PO vide order dated 19.9.1994 issued by the Asstt. SPO (East), Kanpur City. The applicant actually joined as Group 'D', Karbigawan only on 5.10.1994. The qualifying service of the applicant from 5.10.1994 to 30.6.2004 comes to only 09 years, 08 months and 25 days, which is less than the minimum service for granting the pension i.e. 10 years.

6. I have gone through all the pleadings of the parties and have given anxious consideration to the submissions made on behalf of both the parties.


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7. I find force in the arguments of the respondents that the service is to be counted from the day when the applicant actually joined the post i.e. 5.10.1994 and not from 19.9.1994 the day when the promotion order was issued. Therefore, citation of the Ministry's letter dated 30.10.1983 does not come to the rescue of the applicant; thus, the period of service of the applicant does not come to 10 years, but only 09 years, 08 months and 25 days as pointed out by the respondents. Further, the applicant's reliance on Rule 22(3) for condonation of administrative delay is also not relevant because that rule refers to condonation of administrative delay in issuing the posting order after training and for counting the training period for the purposes of pension. Here, there is no such delay in issuing the appointment order or there was any training period of the applicant concerned. Therefore, that rule does not come to his help. In other words, the applicant does not have the minimum length of service of 10 years to be eligible for pensionary benefits.

8. In view of the above, I find no merit in the O.A., which deserves to be dismissed and is accordingly dismissed. No costs.


MEMBER-A 25-1-2007

GIRISH/-