

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 159 of 1993

Surendra Kumar :::::::::: Applicant

Versus

Union of India & :::::::::: Respondents
Others

Hon'ble Mr. S. Das Gupta, A.M.
Hon'ble Mr. T.L. Verma, J.M.

(By Hon'ble Mr. S. Das Gupta, Member 'A')

Through this original application filed under Section 19 of the Administrative Tribunal Acts, 1985 the applicant has approached this Tribunal seeking a direction to the respondents to regularise his services as Car driver and also for quashing the order dated 27.1.1993 passed by the respondents appointing Shri Hari Shanker Tiwari as a Staff Car driver in the office of Post Master General, Gorakhpur and ordering that the applicant be engaged as a Group 'D' official with temporary status.

2. The brief facts of this case are that the applicant was engaged as casual labour on 03.10.1989 by the Senior Supdt. of Post Offices, Gorakhpur Division Gorakhpur. The different offices of the Postal department in Gorakhpur have 3 vehicles including a three wheeler, for which only two posts of driver ^{are} ~~was~~ sanctioned. The applicant, ^{was} initially appointed as casual labour on daily wages and ^{who} was given temporary status w.e.f. 29.11.1989, was made to drive one of these vehicles

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from time to time. The applicant has been representing for being regularised ^{tu post} in ~~incompliance~~ of driver. He had applied for being accommodated against the ^{vacant} post of a Jeep driver in Hardoi division. Later, he submitted an application to respondent no. 1 for being appointed against a vacancy created by the transfer of Mohd. Shamim a Jeep driver of Regional office, Gorakhpur. Since none of these requests was acceded to and infact the post in the regional office, Gorakhpur was filled by the appointment of Hari Shanker Tiwari by the impugned order dated 27.11.1993 (Annexure A-14), the applicant has approached the Tribunal for the aforesaid reliefs.

3. Resisting the claims made by the applicant, the respondents have submitted in their Counter-reply that against the post of driver for the vehicle attached to the office of Senior Supdt. of Post Offices, Gorakhpur Division, Gorakhpur, the Departmental Promotion Committee held in 1984 found Hari Shanker Tiwari as more suitable than Jagannath Chowdhary. Hari Shanker Tiwari was accordingly appointed to ^{it} post. Thereupon, Jagannath Chowdhary submitted an representation against the selection of Hari Shanker Tiwari and on ^{consideration} ~~direction~~ of the representation the appropriate authority discharged ^{it} Hari Shanker Tiwari and appointed Jagannath Chowdhary in that post. Hari Shanker Tiwari filed a Writ Petition in High Court which was later transferred to this Tribunal, the petition was ultimately disposed of by this Tribunal directing the respondents that

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Hari Shanker Tiwari shall be accommodated and allowed to work as driver in the department or any other place. Meanwhile Jagannath Chowdhary who was removed from the post of driver on account of poor eye-sight and also approached the Tribunal against his removal. This Tribunal directed the respondents that the representation of Jagannath Chowdhary should be disposed of within specified period. The decision of the representation not being in favour of Jagannath Chowdhary, he filed another petition before this Tribunal. On that application, an order was issued to the respondents to regularise the applicant against the available vacancy on verification of educational qualification and incompliance of this order Jagannath Chowdhary was taken back as Jeep driver. Subsequent to this, Tribunal order regarding Hari Shanker Tiwari was also received and in compliance therewith, the department appointed Hari Shanker Tiwari against the other post of driver in the postal department at Gorakhpur by the impugned order dated 27.11.1993. The respondents submit that in view of this development there is no post of driver available in the postal department at Gorakhpur to consider the appointment of present applicant as a driver. They are further contended that the applicant has no right to be regularised as a driver since he was initially appointed as a Daily Rated Worker and subsequently given temporary status as a Group 'D' worker only. As regard the vacancy of Jeep driver in Hardoi Division the respondents have submitted that the said vacancy has already been filled before present application.

present applicant has submitted an application for this post.

4. The short point which ~~requisite~~^{requires} the decision in this case is whether the applicant has any right to be appointed as a driver. While the applicant claims that he has been driving a vehicle all along since his appointment as a Casual Worker, the respondents have averred that the applicant was occasionally asked to drive a vehicle. Thus, while the period during which the applicant has worked as driver of a vehicle varies in the versions given by the applicant and, therefore, cannot be determined specifically, the fact remain that atleast for some period the applicant did work as driver of one of the vehicles of the respondents. Does this confer any right on him to be regularised as a driver is the question we have given our anxious consideration to. We have heard the learned counsel of both the parties and perused the records. We are of the view that while the applicant would certainly have a right to be paid the minimum of the scale of a driver during the period he worked as such, a right which is also been recognised by the respondents in their letter dated 22.8.1991(Annexure A-4), the applicant has not acquired any right for being regularised or being appointed to the post of a driver. The department may consider his case sympathetically, in view of past services rendered, while filling up any future vacancy of driver either in Gorakhpur or in other place, ^{but} there cannot be any direction from us that the respondents must regularise his service as a Car driver, nor can we quash ~~or~~ impugned order dated 27.1.93 since the same

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was for appointment of Hari Shanker Tiwari in compliance with the direction of the Tribunal in another petition.

5. In view of foregoing, the application fails and the same is hereby dismissed, leaving the parties to bear their own costs.

J. Verma
Member (J)

W.R.
Member (A)

Allahabad, Dated 23 February, 1994

/M.M./