

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 645 of 1995

Allahabad this the 07th day of May, 2002

Hon'ble Mr.C.S. Chadha, Member (A)
Hon'ble Mr.A.K. Bhatnagar, Member (J)

Vishwa Nath Tiwari (Tripathi) aged about 64 years,
Son of Shri Raghunandan Lal, resident of village
and Post Office Khanpur, District Kanpur Dehat.

By Advocate Shri Vijai Bahadur

Applicant

Versus

1. Union of India through the Secretary of Communication, Department of Post, Dak Bhavan, New Delhi.
2. Director, Postal Services, Kanpur Region, Kanpur.
3. Superintendent of Post Offices, Kanpur Mufassil Division, Kanpur.
4. Sub Divisional Inspector, Dak Sub Division, Rural, Kanpur.

Respondents

By Advocate ~~NDCKM~~S. Srivastava

O_R_D_E_R (Oral)

By Hon'ble Mr.C.S. Chadha, Member (A)

Vide this O.A. the applicant has sought the relief of being permitted to resume duties as Extra Departmental Branch Post Master and to be allowed to continue to work till 14.08.1995 on ..pg.2/-

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the ground that he was wrongly retired by using a wrong date of birth. He claims that his date of birth is 15.08.1930 whereas vide annexure A-1 dated 23.07.1988 he was retired with effect from that date as earlier the department had overlooked his original *or allegedly* date of superannuation which/should have been 03.08.87. The basis of his claim is a subsequent order(annexure-5) dated 21.09.94 by which the applicant claims that his original date of birth i.e. 15.08.1930 was mentioned and that he was supposed to retire w.e.f. 14.08.1995. *or*

2. The surprising thing in this case is, that learned counsel for the respondents has pointed out that the applicant's name is Vishwa Nath Tripathi and not Vishwa Nath Tiwari. She has claimed that annexure-5 dated 21.09.94 is with respect to a Vishwa Nath Tiwari and not Vishwa Nath Tripathi. To substantiate this claim she has also pointed out that the applicant was *an* Extra Departmental Branch Post Master whereas the said order of 21.09.94 relates to *the* *said* *an* Vishwa Nath who was *an* Extra Departmental Mail Peon. She has therefore pointed out that both these persons are different individuals and that the applicant has sought benefit only due to the similarity in the names.

3. We found this allegation of learned counsel for the respondents fully substantiated and established. It appears that the applicant started with this false ground even while filing the O.A. because on the heading of the O.A. he has printed his name as Vishwa Nath Tiwari(Tripathi). It is quite clear that the applicant

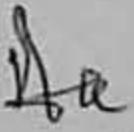
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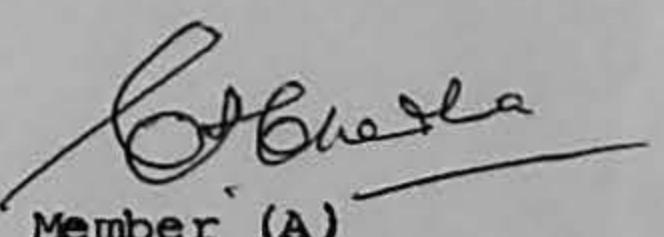
adopted fraudulent means while approaching this Tribunal. Not only he is not entitled to any relief on merits but he also does not deserve any sympathy, because he has not approached the Tribunal with clean hands. He has in fact tried to defraud the Tribunal for which he must suffer.

4. In the circumstances of the case, we find that the applicant who had originally retired earlier in the year 1988, approached this Tribunal after finding an order of some other Vishwa Nath passed after more than 6 years of his retirement. *for therefore* The O.A. has no merit and is, therefore, dismissed.

5. We find that this is a fit case for awarding costs against the applicant because he has been malafide in his action from day one. He has wasted the time of the Tribunal and has in fact tried to defraud and cheat the Tribunal. We, therefore, direct that the applicant shall pay cost to the tune of Rs.1000/- to the department and further direct the Registrar of the Tribunal to file a criminal complaint against the applicant for an attempting *to* defraud and cheat the Tribunal. Such cases do not deserve any mercy.


Member (J)

/M.M./


Member (A)