

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1600 OF 1999

FRIDAY, THIS THE 7TH DAY OF MARCH, 2003

HON. MRS MEERA CHHIBBER, MEMBER (J)

Indra Prakash Singh,
s/o late Raj Narayan Singh,
r/o Village Sadaipur,
post Office Sarkoni,
Dist:- Jaunpur.

... ..Applicant.

By Advocate:- Shri J. B. Singh

V E R S U S

1. Union of India through Secretary
Department of Post & Telegraph Department
Government of India, New Delhi.
2. Post Master General U.P.,
Allahabad.
3. Senior Superintendent of Post Offices
East Division, Varanasi.

... ..Respondents.

By Advocate:- Shri D. K. Dwivedi

O R D E R

By this O.A applicant has sought the following
reliefs:-

- (a) to direct the respondents to give the regular appointment to the petitioner/applicant on the class-III post of driver in the Department made in accordance with law.
 - (b) to direct the respondents to allow the applicant/petitioner to work continue on this post of driver in the department.
 - (c) to give full opportunity to the applicant when the regular selection or appointment is to be made on the regular post of driver made by the respondents in the department.
 - (d) to allow this petition alongwith costs."
2. It is claimed by the applicant that he was initially engaged as a Casual Driver on 22-7-1997 and continued to



work up to June, 1999 for which he was even paid the salary from time to time. Thereafter the respondents even made a request to the higher authorities to take necessary action as they were ^{having} B shortage of Driver which is evident from the letter dated 13-5-1999 (Annexure-5) and he had even given a representation to give him regular appointment followed by number of reminders which are annexed as Annexure -7 onwards but neither he was given any reply nor he was appointed on regular basis therefore finding no other remedy he had filed the present O.A. He has submitted that since there was neither complaint against him and he fulfilled all the qualifications and had sufficient experience also his services ought to have been regularised.

3. Respondents, on the other hand, have filed their counter affidavit ^{stating B} therein that applicant was engaged as Mail Motor Driver against leave vacancy on daily wages basis during the period from September 1997 to January, 1999 on purely temporary basis and in any case he never worked continuously for the whole month for example in some months he had worked for 8 days sometime for 17 days or 25 days depending on the quantum of work. They have further submitted that since there is no vacancy in Mail Motor Service, therefore, his services can not be regularised and they are not required any longer.

4. I have heard both the counsel and perused the pleadings as well.

B

5. Though it is submitted by the applicant that he worked with the respondents from July, 1997 to June, 1999 but his request for regular appointment can be considered only in case he is able to show that there was a clear vacancy. Applicant's counsel has relied on the letter written by the respondents stating therein that there was shortage of Drivers ^{and R} & necessary ^{action} should be taken in that regard. ^{but} For this only shows that this was internal correspondence between the two offices and ^{although R} even ~~that~~ they might have requested for more post of Drivers but it does not show that any post was sanctioned by the higher authorities. There is nothing on record to show that there was any vacancy available with the respondents and since respondents have categorically stated that there was no vacancy available definitely a direction can not be given to the respondents to appoint the applicant on a regular basis. It is also not the case of applicant that after dis-engaging him the respondents have engaged some other person as a Driver either on Casual Basis or on regular basis ^{R from R} for open market. Therefore, in my considered view no case has been made out for interference by the Tribunal. In the absence of any vacancy no orders can be issued to give regular appointment to the applicant. Accordingly ^R this O.A is dismissed with no order as to costs. ^{However R} It is ~~further~~ observed that in case respondents need to engage any Driver on Casual basis they may consider the applicant as well for such engagement as he had worked with the respondents admittedly for some period without any complaint or so.



Member (J)