

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No.1243 of 2002

Tuesday, this the 8th day of April, 2003

Hon'ble Mr. Justice R.R.K.Trivedi, V.C.
Hon'ble Maj. Gen. K.K.Srivastava, A.M.

Radhey Shyam Garg,
son of Shri Babu Lal Garg,
R/o Village & P.O. Jaidpura,
District Aligarh.

.....Applicant.

(By Advocate : Shri A.B.L.Srivastava)

Versus

1. Union of India,
through the Secretary to
Department of Post,
Dak Bhawan, New Delhi.
2. The Post Master General,
Agra Region, Agra,
3. The Senior Superintendent,
Post Offices, Aligarh.

....Respondents.

(By Advocate : Shri R.C. Joshi)

ORDER (ORAL)

By Hon'ble Mr. Justice R.R.K.Trivedi, V.C. :

By this OA under Section 19 of A.T. Act, 1985, the
applicant has prayed for a direction to respondent No.3 i.e.
Senior Superintendent Post Offices, Aligarh to pay back wages
to the applicant amounting to Rs.1,23,957/- alongwith interest
@ 18%.


Contd..2.

2. The facts of the case are that the applicant was serving as Extra Departmental Branch Post Master (in Short E.D.B.P.M.) of Jaidpur Post Office, Aligarh. His services were terminated by order dated 2.1.97, which was challenged in OA No.1054/97. The OA was allowed on 16.8.2001 by following orders :-

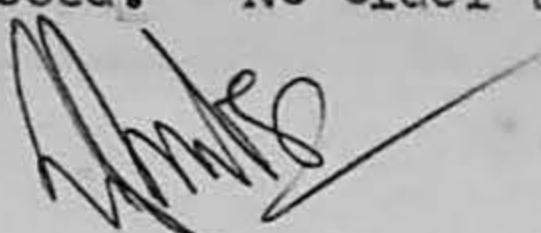
"....The order of termination of the applicant dated 2.1.97 is, therefore, set aside. The applicant shall be reinstated within a period of eight weeks from the date of receipt of a copy of this order. In case the respondents decide to fill up the post on permanent basis at any time, they shall do so only subject to consideration of the candidature of the applicant for the said post in relaxation of the age requirement. The application stands disposed of in the above terms."

The applicant has now filed the second OA for the relief mentioned above. The learned counsel for the respondents submitted that this OA is not legally maintainable as in OA No.1054/97 the applicant had claimed the relief for payment of ex-gratia compensation which was not granted. The OA is barred by res-judicata.

3. We have carefully considered the submissions of the counsel for the parties. There is no doubt about legal position that if the relief has been claimed in the OA and it is not granted specifically or court is silent about relief, then it shall be deemed that the relief ~~has not been~~ refused by the Court. In previous OA applicant specifically claimed payment of back wages, but it was not granted as the Tribunal was silent. Hence in the circumstances, it shall be deemed that relief, though was claimed, but it was not granted. In view of the above legal position, the claim of the applicant for payment of back wages is not

legally maintainable and is barred by res-judicata. So far the relief for regularisation is concerned, we do not find that the applicant on the basis of service rendered is entitled for regularisation. But as he has served for more than three years, he may be given benefit for which he may be entitled under rules.

4. Subject to aforesaid observation, the OA is dismissed. No order as to costs.



Member-A



Vice Chairman

RKM/