

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 19th day of AUGUST 2004.

Original Application no. 1138 of 2003.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman  
Hon'ble Mr. S.C. Chaube, Administrative Member

Mahanand Prasad, s/o Sri Bairagi Prasad,  
R/o Vill & P.O. Rohua Machhargawan, Tehsil Hata  
Distt. Kushinagar. employed as EDBPM (Re named GDS BPM),  
Rohua Machhargawan, in the Distt. Kushinagar.

... Applicant

By Adv : Sri J.M. Sinha  
Sri A. Tripathi

**V E R S U S**

1. Union of India through the Secretary,  
Ministry of Communication, Department of Posts,  
Dak Bhawan, New Delhi.
2. P.M.G. Gorakhpur Region, Gorakhpur.
3. D.P.S. Gorakhpur Region, Gorakhpur.
4. S.S.P.Os, Deoria Division, Deoria.

... Respondents

By Adv : Sri S. Singh

O R D E R

Hon'ble Mr. Justice S.R. Singh, VC.

Sri A. Tripathi learned counsel for the applicant  
and Sri S.K. Pandey brief holder of Sri S. Singh, learned  
counsel for the respondents.

2. The applicant, it appears, was appointed as Extra  
Departmental Branch Post Master (EDBPM) Rohua, Machhargawan

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...2/-

Distt. Kushinagar (Deoria) in 1992. It appears that one Sri Mohan Prasad Gupta made complaint challenging legality of the appointment order issued in favour of the applicant. A show cause notice dated 18.2.1993 was served on the applicant, who was required to give his reply within ten days. The applicant submitted his reply to the Competent Authority. Senior Supdt. of Post Offices (SSPOs) vide his order dated 22.3.1993 terminated appointment of the applicant. The said order of termination was quashed by Tribunal's order dated 5.7.2001 in OA 476 of 1993 on the ground that the Competent Authority passed the order ~~without~~<sup>in</sup> following the course permissible under law. The Tribunal, however, gave liberty to the SSPO to pass a fresh order in accordance with rules. But at the same time the Tribunal directed the Competent Authority to permit Sri Mohan Prasad Gupta to continue on the post subject to the order that may be passed by the Competent Authority. The Competent Authority namely SSPOs passed impugned order on 30.10.2001 thereby restoring the applicant to his post at Branch Post Office Rohua Machhargawan with immediate effect.

2. The applicant has been denied salary from 23.3.1993 till the date of reinstatement into service pursuant to the order dated 30.10.2001. Against the said order, it is stated, by Sri A. Tripathi, learned counsel for the applicant, a writ Petition was filed which has been dismissed. The present OA is directed only against a part of the order whereby the applicant has been denied salary from 23.3.1993 till the date of reinstatement. In our opinion no ~~acceptance~~<sup>exception</sup> can be taken against the impugned order. Perusal of the earlier order passed by the Tribunal indicates that respondent no. 4 was allowed to continue on the post. Therefore, the applicant

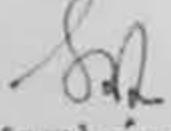
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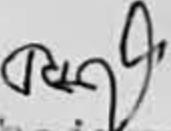
3.

cannot claim entitlement to any salary for the post ~~etc~~  
salary of which has already been paid to Mohan Prasad  
Gupta who continued on the post pursuant to the order  
passed by this Tribunal.

3. The OA fails and is dismissed accordingly with  
no order as to costs.

4. At this stage applicant's counsel submitted that  
the OA may be dismissed as not pressed. Accordingly, the  
OA is dismissed as not pressed. *It is as well. My way or the highway*  
*The OA is dismissed.*

  
Member-A

  
Vice-Chairman

/pc/