

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD

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(THIS THE 09<sup>th</sup> DAY OF February 2010)

*Hon'ble Mr. A.K. Gaur, Member (J)*  
*Hon'ble Mrs. Manjulika Gautam Member (A)*

**Original Application No.967 of 2006**  
(U/S 19, Administrative Tribunal Act, 1985)

Manoj Kumar Panday, Son of Sri Rama Kant Panday, Resident of Village & Post-Lalganj, District-Mirzapur.

..... *Applicant*

*Versus*

1. Union of India through its Secretary (Posts) Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Superintendent of Post Offices, Mirzapur Division, Mirzapur.
3. Assistant Superintendent of Post Offices, West Sub-Division, Mirzapur.
4. Kamleswar Nath Tripathi Son of Bhola Nath Tripathi, Resident of Hallia Lalganj, Mirzapur.

..... *Respondents*

Present for Applicant : Shri Avnish Tripathi

Present for Respondents : Shri Himanshu Singh

*ORDER*

**(Delivered by Hon'ble Mr. A.K. Gaur, J.M.)**

Heard Sri A. Tripathi, counsel for the Applicant, and Sri Himanshu Singh, learned counsel for the Respondents.

2. Learned counsel for the applicant, submitted that a post fell vacant in consequence of retirement of a regular incumbent from the post of G.D.S.

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Runner, Lalganj. The applicant was appointed on 21.03.2006 on provisional basis as he fulfilled all the eligibility criteria and the conditions for appointment on the said post. The applicant has been working on the said post till date and according to the applicant, he is working to the entire satisfaction of his superiors.

3. Vide order dated 22.01.2006, the services of the applicant was terminated as per order dated 19.06.2006. The applicant was re-engaged on 24.10.2006 by giving two days artificial break.

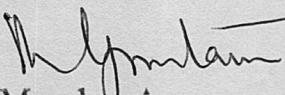
4. The grievance of the applicant is that the respondents are again going to terminate the services of the applicant as per order dated 04.09.2006 w.e.f. 20.09.2006 by engaging another person, who is respondent no.4 in the present O.A. Dasti notice has also been served upon the Respondent No.4.

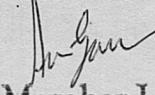
5. Learned counsel for the Applicant would contend that impugned order has been passed in utter violation of the law enunciated by the Apex Court in the case of *Piyara Singh Vs. State of Haryana* in which Hon'ble Apex Court has held that *an ad hoc employee cannot be replaced by an ad hoc employee. He can only be replaced by a regular incumbent.* The order dated 04.09.2006 is a glaring example of the violation of dictum of law enunciated by the Apex Court in Piyara Singh's case (supra).

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6. In our considered view, the order giving appointment to Respondent No.4 on ad hoc basis is clearly in teeth of law laid down by Hon'ble Apex Court in Piyara Singh's case (supra). Consequently, we quash and set aside the termination order dated 04.09.2006 (Annexure No.1/compilation-I) and direct the respondent to allow the applicant to work on the said post (G.D.S. Rnner) till the regular appointment is made.

7. O.A. stands allowed with the aforesaid observations/directions. No costs.

  
Member-A

  
Member-J

Sushil