

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD**

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(THIS THE 30<sup>th</sup> DAY OF JULY 2009)

*Hon'ble Mr. A.K. Gaur, Member (J)*  
*Hon'ble Mr. D.C. Lakha Member (A)*

**Original Application No.111 of 2006**  
(U/S 19, Administrative Tribunal Act, 1985)

Mohd. Aslam Son of Sri Jamal Hussain Jeep Driver, Office of the Superintendent of Post Offices, District-Jaunpur, Resident of Village-Gangeheri, P.O. Shagoli, District-Sultanpur.

..... **Applicant**

**Versus**

1. Union of India through its Secretary, Ministry of Communication Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, U.P. Circle, Lucknow.
3. The Superintendent of Post Offices, District-Jaunpur.

..... **Respondents**

*Present for Applicant :*                      *Shri P.K. Srivastava*

*Present for Respondents :*                *Shri S. Srivastava*

**ORDER**

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

By means of this Original Application the applicant has claimed for seniority increments, Pay and Allowances etc from the date 05.12.1983 to 05.06.1989.

2. The material facts involved in the present case are that the applicant was engaged as purely outsider Jeep Driver on daily wages w.e.f. 05.11.1983 vide order dated 01.12.1983. After that, the post of Jeep Driver was sanctioned vide DPS Allahabad memo dated 21.01.1984 and the applicant was engaged provisionally as outsider jeep driver against the said post vide Superintendent of Post Office, Jaunpur memo

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dated 25.01.1984 pending the regular appointment as per Jeep Driver Recruitment Rules, 1983.

3. In the counter reply filed by the respondents it is submitted that a Jeep was supplied to the division of the deponent on 03.11.1983 and the applicant was engaged as temporary outsider Jeep Driver on daily wages w.e.f. 05.11.1983. The engagement of the applicant as an outsider jeep driver was without observing the prescribed procedure for recruitment as per Jeep Driver Recruitment Rules, 1983. The Departmental Promotional Committee met on 06.06.1989 for direct recruitment of the jeep driver, the applicant was one of the candidates out of the list of 12 candidates sponsored by the Employment Exchange, Jaunpur. At the time of selection, only two candidates were present before the Departmental Promotional Committee on the specific date and the applicant was found fit for selection by the Departmental Promotional Committee on 06.06.1989 and was order to be appointed as jeep driver, Jaunpur in the pay scale of Rs.950-1500 vide office memo dated 07.06.1989. The applicant joined as jeep driver on 07.06.1989 (F/N).
4. Learned counsel for the applicant has filed Rejoinder Reply denying the averments contained in the counter reply and submitted that the effect of the regularization of the services of the applicant was should have been given w.e.f. 25.01.1984, after creation of post of Jeep Driver but the respondents in order to deprive the legitimate claim of the applicant, prolonged the case w.e.f. year 1989.
5. We have heard Sri P.K. Srivastava, learned counsel for the applicant and Shri Saurabh Srivastava, learned counsel for the respondents.
6. Learned counsel for the applicant vehemently argued that the applicant has been working on the post of Jeep Driver since 1983. On 25.01.1984 when the post was created by Department he was already working. In any case, he should be given seniority from the date of his appointment on daily wages in the year, 1983. Learned counsel for the

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applicant has placed reliance on the decision rendered by Hon'ble High Court, Allahabad reported in **2002(2) UPLBEC-1943-B.S. Tripathi Vs. State of U.P. & Ors.** and **2003(1) UPLBEC-674 - N.K. Tripathi Vs. Secretary Minor Irrigation** . Learned counsel for the applicant would further contend that since the applicant has continued to work on the post regularly since 1983-84, the applicant's seniority should have considered from the date of his appointment in the year 1983.

7. Learned counsel for the respondents on the other hand submitted that the post of Jeep Driver was created in the year, 1984, but substantive appointment of the applicant was held in the year 1989 by the departmental Promotional Committee. Learned counsel for the respondents has placed reliance on the decision of Hon'ble Supreme Court reported in **2007(1) SCC (L&S) 594 (State of Uttranchal Vs. D.K. Sharma** and submitted that seniority cannot be reckoned from the date of occurrence of vacancy or creation of vacancy, seniority could only be reckoned from the date of substantive appointment of the employee. In the instant case there is no quarrel about the recommendation that the Departmental Promotional Committee met on 06.06.1989 for direct recruitment of the jeep driver, and the applicant was one of the candidates out of the list of 12 candidates sponsored by the Employment Exchange, Jaunpur. The applicant was found fit in the selection by the Departmental Promotional Committee.

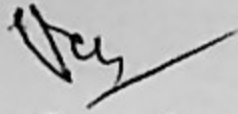
8. In our considered view the seniority could be reckoned from the date of substantive appointment and the earlier appointment of the applicant being on daily wages can not to be considered for the purposes of seniority.

9. Learned counsel for the applicant submitted that in paragraph no.7 of the counter, it is stated that the regular recruitment as per jeep driver recruitment rules 1983 was in process, but the same could not be finalized due to non attendance of all the members of Departmental Promotion Committee and later on due to imposition of ban on direct recruitment in pursuance of the Director General, Posts Communication

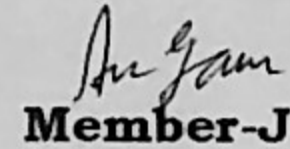
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dated 06.04.1999 the DPC was held. Learned counsel for the applicant stated that the DPC could not be held earlier and for this lapse the applicant cannot be allowed to suffer.

**10.** Having given our anxious thought to the pleas advanced by the parties counsel, we are satisfied that the DPC was held in accordance with the provision of Rule only on 06.06.1989. We are fully satisfied that although, the post of Jeep Driver was advertised in the year 1983 but the substantive appointment of the applicant was made on 06.06.1989. In all fairness the seniority should be reckoned from the date of substantive appointment in view of the decision of State of Uttranchal Case (supra). Accordingly, O.A. is dismissed. No Costs.



**Member-A**



**Member-J**

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