

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1014 of 2007

86
YB

Tuesday this the 13th day of November, 2007

**Hon'ble Dr. K.B.S. Rajan, Member (J)
Hon'ble Mr. K.S. Menon, Member (A)**

Suresh Dwivedi, Son of Shri Gaya Prasad Dwivedi, resident of village and Post Office Palhanpur, District Kanpur Dehat.

Applicant

By Advocate Sri Anant Vijay

Versus

1. Union of India through its Secretary, Ministry of Communication, Department of Posts, New Delhi.
2. Superintendent of Post Office, Kanpur (Mufassil) Division, Kanpur.
3. Chief Post Master General, U.P. Circle, Lucknow.
4. Post Master General, Kanpur Region, Kanpur.

Respondents

By Advocate Sri Saumitra Singh

ORDER

By Dr. K.B.S. Rajan, Member (J)

The applicant was originally appointed on provisional basis by the Order dated 10.05.1992 and he joined in July 1992 but his services were terminated in October 1992. Thereafter, he approached this Tribunal vide O.A. No. 1781 of 1992. Vide an interim order, the Tribunal directed the respondents to go ahead with fresh selection but no appointment should be made or charge be given until further orders. In the meantime, if no person was appointed, the applicant was allowed to continue. The applicant had continued for more than five years. By order dated 12.05.1999, the O.A. was dismissed on the ground that as

applicant was appointed on provisional basis, he cannot claim any right for regular appointment. Later on, the applicant had filed another O.A. No. 491 of 2007 with the contention that new vacancy had arisen and the respondents have not disposed of his representation. By Order dated 14.05.2007, this Tribunal directed the respondents to dispose of the representation of the applicant. By single sentence vide impugned order dated 24.07.2007, the Superintendent of Post Office, Kanpur (Mufassil) Division, Kanpur (respondent No.2) rejected his claim.

2. Sri Saumitra Singh, Senior Standing Counsel for Union of India has rightly pointed out that all that applicant could claim is that by way of he having served on provisional basis for more than three years, his name should be enlisted alongwith other provisional appointee of over 3 years service and those ~~who~~ rendered surplus and on the basis of seniority, his claim for regular appointment shall be considered.
3. We have considered the case and heard the arguments of learned counsel for the parties.
4. By virtue of provisional appointment of over three years, a person can be considered for regular appointment as per existing rules. In the instant case, though the applicant earlier continued on the basis of an interim order of the Court, we find that since no administrative reason was given in the ~~earlier~~ order of termination, he could have otherwise also be~~en~~ continued in service on provisional basis. Thus, the applicant has gain~~ds~~ that much right as of provisional appointee for over three years. Accordingly, the respondents shall enlist applicant's name in the waiting list of provisional appointee of over three years and in his turn, he shall be considered for regular appointment.
5. With the above directions, the O.A. stands disposed of at the admission stage itself. No order as to cost.

Member
Member (A)

/M.M./

Member
Member (J)