

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

(This the 17 day of 7 2009)

Present

Hon'ble Mr. A.K. Gaur, Member-J

Original Application No.407 of 2007
(U/S 19, Administrative Tribunal Act, 1985)

Taqi Raza, son of Qam Qamur Raza, resident of
Mohalla- Sarai Sadaq Casba Sirsi, Tehsil- Sambhal,
Distt. Moradabad. ..Applicant.

By Advocate : Shri M.M. Abid
Sri S.L. Kushwaha
V E R S U S

1. Union of India, Ministry of Communication
through Post Master General, Bareilly:
2. Post Master General, Bareilly.
3. Senior Superintendent of Post, Moradabad
Division, Moradabad.
4. Sub Post Master, Sirsi, Moradabad.

..Respondents.

By Advocate : Shri R.K. Srivastava

O R D E R

(Delivered by : Hon'ble Mr. A.K. Gaur, Member-J

The applicants through this O.A filed under section 19 of
Administrative Tribunals Act, 1985 have prayed for quashing
the order dated 12.04.2006 /Annexure -1 of O.A coupled with
prayer for a direction to the respondent No. 2 and 3 to release
entire retiral benefits from 31.07.2003 and pension alongwith
arrears. ✓

2. Factual matrix of the case is that the applicant was appointed as C.P. Chowkidar at Sirsi, Moradabad on 02.05.1988. The Superintendent of Post Offices, Moradabad Division vide order dated 26.11.1992/Annexure-4 of O.A granted temporary status to the applicant w.e.f. 29.11.1989 alongwith other Full Time Casual Chowkidars entitling him to minimum pay scale at par with regular group. 'D' employee including DA, HRA, CCA, increments , leave etc.

3. The grievance of the applicant is that after his superannuation w.e.f. 31.07.2003, despite submission of pension papers, the retiral benefits were not released, therefore, he preferred representation dated 17.10.2003, but as the Senior Superintendent of Post Offices, Moradabad Division vide letter dated 20.10.2003 informed that the applicant is not entitled for retiral benefits as his services were not regularized, he preferred representation before the S.S.P.Os. Moradabad on 05.01.2004 for regularization of his services. As the S.S.P.Os. Moradabad did not reply, the applicant preferred an Appeal, which, in compliance of directions of the Tribunal dated 12.01.2006 passed in O.A No. 1622/2005 filed by the applicant, has been rejected without disclosing any reason.

4. The respondents have filed their Counter Affidavit. Learned counsel for the respondents argued that the appointment of Contingent Paid Chowkidar is fully temporary and different from the regular employees of the department. Learned counsel for the respondents invited my attention to paragraph 3 of order dated 06.01.1993 (Annexure -5 of O.A)

✓

and submitted that the applicant has totally misconstrued the contents of para 3. Learned counsel for the respondents would contend that the pensionary benefits can only be allowed to the applicant unless his regularization as the appointment granting temporary status and its regularization is a separate process for Contingent Paid Chowkidar . Learned counsel for the respondents vehemently argued that if any Contingent Paid Employee is absorbed or regularized as a regular employee then he will be entitled for pension and pensionary benefits and submitted that as the applicant was not regularized or absorbed as regular employee, therefore he is not entitled for pensionary benefits as provided under CCS (Pension) Rules, 1972.

5. Applicant has filed rejoinder affidavit reiterating the facts stated in the original application.

6. I have heard rival contentions, perused the pleadings as well as the documents annexed therewith.

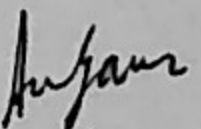
7. For convenience, I would like to reproduce the paragraph 3 of the order dated 06.01.1993/Annexure-5 of O.A which reads:

“3. Counting of service for the purpose of pension and terminal benefits as in the case of temporary employees appointment on regular basis for those temporary employees, who are given temporary status and who complete three years service in that status, while granting them pension and retirement benefits after their regularization.”

8. In the present case the applicant has not yet been regularized in group 'D' post and he retired as a temporary

status worker without his proper regularization, therefore, I am of the considered opinion that the applicant is not entitled for any retiral as well as pensionary benefits.

9. In view of the observations made above, I do not find any good ground to interfere with the order dated 12.04.2006 (Annexure-1 of O.A.) and the O.A. is dismissed with no order as to costs.


Member-J

//Anand//