

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 18th DAY OF AUGUST, 2009)

PRESENT :

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A**

ORIGINAL APPLICATION NO. 635 OF 2007
(U/s, 19 Administrative Tribunal Act.1985)

Smt. Padmawati Singh, W/o Shri Ramesh Singh,
GDS BPM Ubhawn, Belthara Road, District-Ballia,
Resident of Village-Majhwalia, Post Office-Ubhawn, District-Ballia.

..... Applicant

By Advocate : Shri Pankaj Srivastava

Versus

1. Union of India, through the Secretary, Ministry of Communication, Dak Bhawan, New Delhi.
2. The Post Master General, Gorakhpur Region, Gorakhpur.
3. The Superintendent of Post Offices, Ballia.

..... Respondents

By Advocate : Shri Saurabh Srivastava

O R D E R

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

1. Heard Shri D. Tiwari, holding brief of Shri P. Srivastava, learned counsel for the applicant and Shri Saurabh Srivastava, Advocate representing the respondents. One Deonath, GDS was put off duty and his place having fallen vacant the respondent authorities initiated process of making appointment on the said post of GDS BPM, Ubhawn (District-Ballia).
2. According to the applicant applications were invited from eligible candidates including applicants' name being invited from

Employment Exchange as well and a merit list was prepared wherein name of the applicant appeared at serial no.1 having all requisite qualification for the said post and found suitable candidate at the time. There is no dispute that applicant was appointed till the continuance of temporary vacancy of put off duty of Deonath. At one stage Deonath was put back, and in view of it, the appointment of the applicant was subject to the finalization of the disciplinary case against said Deonath. Deonath was put back in service on 21.06.2004. He again committed fraud and he was put off from duty on 17.2.2005. Consequently, applicant was again permitted to take charge of the post of GDS BPM, Ubhawn, (in place of Deonath). The disciplinary case against Deonath was not completed but applicant apprehended that in order to oblige some other persons, in haste, he may discontinue the service by passing any order on or before 30.06.2007.

3. Being aggrieved applicant approached this Tribunal by filing above noted OA No.635 of 2007. On 26.06.2002 Single Member Bench passed an interim order directing to maintain status-quo as on today. The said interim order has been continued from time to time.

4. There is no dispute that applicant is still continuing. It is also not in dispute (since statement is made at Bar that Deonath was found guilty and he has been removed from service in the year 2007).

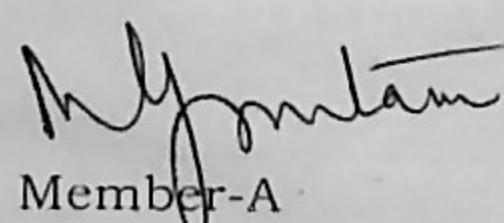
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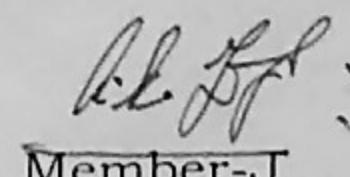
5. On behalf of applicant it is being argued that since Deonath has been removed from service and there is a regular permanent vacancy, the applicant should be allowed to continue.

6. Aforesaid contention of the applicant has been vehemently opposed on behalf of the respondent on the ground that entire procedure of selection, in the case of the applicant was clearly notifying that it was a temporary vacancy as a substitute.

7. Having given due considerations to the arguments raised on behalf of the respective parties, we are of the view, that the applicant cannot claim permanency as admittedly her appointment was provisional. In view of it, when Deonath has been removed, fresh selection for the post is to be adopted inviting applications from all other candidates. Opportunity to others cannot be denied and department must have services of the best available candidates. Concept of fairness further requires that applicant may also be considered when process of selection is initiated against the post in question by giving benefit of relaxation in age (if any) for the period she had actually worked in the department. It is further made clear that if there is no complaint against her working, as pleaded in OA; she may be allowed to continue till regular appointment is made.

8. OA stands finally disposed of subject to above directions. No Costs.


Member-A


Member-J

/ns/