

Open Court

**Central Administrative Tribunal
Allahabad Bench, Allahabad**

Original Application No. 898 of 2007

Allahabad, this the 24th day of August, 2009

Hon'ble Mr. Ashok S. Karamadi, Member (J)
Hon'ble Mr. S.N. Shukla, Member (A)

Ishwar Dayal, son of Sri Sher Singh, resident of Village and Post
Basrehar, District Etawah.

Applicant

By Advocate: Sri V.K. Agnihotri

Vs.

1. Union of India, through Secretary, Ministry of
Communication, Department of Posts, Dak Bhawan, Sansad
Marg, New Delhi.
2. Head Post Master, Etawah.
3. Inspector, Post Office, Bharthana, District Etawah.

Respondents

By Advocate: Sri S.C. Mishra

ORDER

By Hon'ble Mr. Ashok S. Karamadi, J.M.

The grievance of the applicant, in this O.A., is against the
order dated 08.03.2007 passed by the respondents and further
seeking direction to the respondents to re instate the applicant in
service.

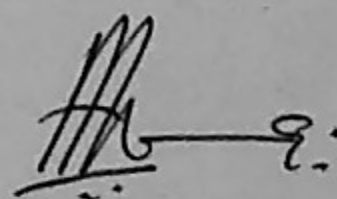
2. The applicant states that he was appointed on the post of
Runner on 30.03.1989 and worked continuously till 23.09.1995,
and further without any show cause notice to the applicant and
without affording any opportunity of hearing, the respondents
removed him from the service.



3. On notice, the respondents have filed the Counter Affidavit, and contend that the applicant has no right to claim for regularization in view of the fact that he was called upon to work on the post which was fallen vacant and further state that he worked as a substitute on temporary basis during two different spells i.e. w.e.f. 30.03.1989 to 25.05.1990, and 24.02.1995 to 24.09.1995 and on arrival of regular incumbent of the said post, he was relieved. The respondents contend that in view of the guidelines of Department of Personnel and Training vide its instruction dated 21.10.2002, which is meant for regulating substitute/provisional arrangement made in place of regular Gramin Dak Sevaks, the substitute has no legal right for regularization. Based on the aforesaid submission and also on the decisions relied upon, the respondents have prayed for dismissal of the O.A.

4. We have heard the learned counsel for the parties and perused the pleadings and materials available on record.

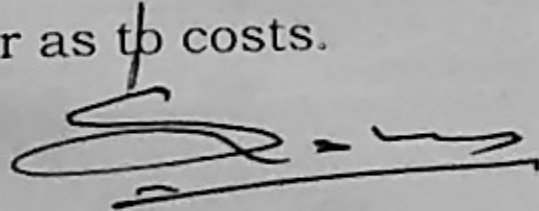
5. On perusal of impugned order, it is clear that statement of the applicant that he worked continuously w.e.f. 30.03.1989 to 23.09.1995 is not correct, and further stated that in view of instructions and guidelines he is not entitled for continuation. On perusal of guidelines and instructions, produced as annexure CA-2, and having regard to the admitted fact that the applicant was not appointed on a regular post and he was called upon to discharge his duties as substitute, we do not find any justification in accepting the contention of the applicant for giving direction to the respondents to regularize his services and, as such, contention of



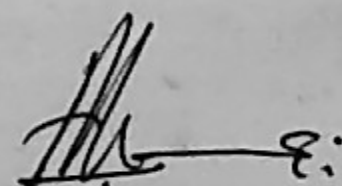
the applicant is not accepted. In view of the above, the impugned order does not call for interference.

6. Learned counsel for the applicant has contended that the applicant has served in the respondents' department, as the respondents have failed to fill up the vacancy during the aforesaid period, he lost his opportunity for seeking appointment elsewhere. Having regard to this contention of the applicant, we do not wish to say that the applicant has a right to seek direction for regularizing his services on the aforesaid post. However, we direct the respondents that as and when the respondents called upon application for filling up the post of Gramin Dak Sevaks, in that event if applicant applied for the same, the respondents shall take into consideration of his service while considering the case along with others in accordance with law.

7. With the above observations/directions, O.A. stands disposed of. No order as to costs.



[S.N. Shukla]
Member 'A'



[Ashok S. Karamadi]
Member 'J'

/M.M/