

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

25.2.2001.

Counter filed after service  
on the counsel for the applicant.  
Call on 24-6-2001 for  
rejoinder if any.

AM  
25/2/2001

REGISTRAR

and Memo

MA 568/03 for  
app orders. copy has  
been served.

(Counter filed and  
copy sent)

BenchOn dt. 8.8.03

Reg. Consideration  
of MA 568/03.

11/8BenchOn dt. 12.8.03

Reg. Consideration  
of MA 568/03 and  
MA 617/03. Copy served.

8/8BenchOrder dated 04.02.04

On the prayer of Mr. S.B.Jena,  
Ld. A.S.C., attorney to 16.02.04.

Vice-Chairman (A)

Vice-Chairman (J)

O.A.Nos 35 & 36/2001Order dated 16.2.2004

Heard Shri Ganeswar Rath, the learned counsel for the applicants and Shri S.B.Jena, learned Addl. Standing Counsel appearing on behalf of the Respondents in both the cases (separately) and perused the materials placed on records. Since both the OAs are involved in identical issues, this common order will govern both the cases. For the sake of convenience we may refer the facts of the O.A.No. 35/2001.

The applicant was appointed as [redacted] Field Assistant on 7.6.1976 in the scale of Rs. 260-430/- . Thereafter he was appointed on regular basis with effect from 5.5.1980. He made a prayer to tag on his previous service from 9.6.1976 till 4.5.1980. It has emerged from the order passed by the Respondents that he was appointed against ~~leave~~ permanent leave vacancy with effect from 5.5.1980, but for sometimes i.e., from 9.6.1976 to 8.6.1977 he was allowed to work against the leave vacancies. Therefore,

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for Admision and  
Hearing with no. 568/03  
for consideration.

no. 925/03 filed

for amendment  
copy sent.

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3/2/04

Bencl

On dt. 04.02.04

For Admision /  
Hearing with no 568/03  
and no. 925/03 for  
app orders.

h  
13/02

Bencl

On dt. 16.2.04

Copies of order  
prepared for counsels  
for both sides.

h  
4/3

h  
copy  
do

the leave vacancy period cannot be treated to be continuous service so as to get any service benefits.

Shri Rath, the learned counsel for the applicants submitted that in the appointment order (Annexure-1) nothing has been spelt out that the applicant had served against the leave vacancy. His second limb of submission is that only the Respondents communicated a letter on 15.2.1980 by stating that the appointment was against a leave vacancy. Equally a serious contention has been raised by Shri Rath that one Shri A.P.Mishra, who was also appointed under similar circumstances but the authorities were kind towards him and regularise his service during the period in which he was working against the leave vacancy. So far as his third submission is concerned, we are unable to appreciate the contention of Shri Rath since Shri A.P. Mishra is not a party in this case. Whatever the terms and condition while giving him appointment have also not been placed before us. Assuming the Respondents have once committed such irregularity, the Tribunal cannot have issued a direction to commit another irregularity in case of the applicant. Therefore, the case of Shri A.P.Mishra cannot be cited as instance for the purpose of giving direction to the Respondents. In the appointment order, it is true, that nothing has been spelt out that the applicant was

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appointed against a leave vacancy. But subsequently the Respondents have vide Annexure-4 have stated that the applicant's appointment was against leave vacancy. Shri Rath also invited our attention that the Under Secretary of I.C.A.R. has communicated the letter to the Director, CRRI by stating that the applicant shall be treated to have been posted as Field Assistant on regular basis. While interpreting this decision of the council, we are to find out from what date actually the applicant had joined on regular basis. We find that the applicant had joined on regular basis only with effect from 5.5.1980, but not before hand. The applicant could not satisfactorily explain to us whether had he performed any service from 8.6.1977 till 5.5.1980. Therefore, in the above background, his previous service from 9.6.1976 till 4.5.1980 was rightly not taken into consideration.

For the reasons discussed above, we find no merit in both the O.A. which are dismissed. No costs.

*Govt. of India*  
VICE-CHAIRMAN (J)

*Arora*  
VICE-CHAIRMAN (A) 16/2