

6 O.A. 36/01

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

16-2-04

For the reasons recorded  
separately in O.A. 35/01, this  
O.A. is dismissed. No costs.

Vice-chairman (L)

Vice-chairman (R)

MA 568/01 for  
app orders. copy ha:  
ben servd.

(Counter 61/01 and  
copy servd)

Benif

On dt. 8.8.03

Reg. consideration  
of MA 568/01.

Benif

On dt. 12.8.03

Reg. consideration  
of MA 568/03 and  
MA 612/03. copy servd.

Benif

O.A.Nos 35 & 36/2001

Order 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 ~~Field Assistant~~ 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 ~~a~~ 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,

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

for admission and  
hearing with no. 568/3  
in continuation.

no. 925/01 for  
amendment.  
Copy (contd.)

11/04  
Benzel

On dt. 04.02.04

For Admission /  
Hearing with no 568/3  
and no. 925/01 for  
app orders.

11/02  
Benzel

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

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 he had 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.