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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
Date of Order : 10.01.2003.

O.A. NO. 322/2001

Mahavir Singh Nathawat son of Shri Ladhu Singh, aged about 38 years, resident of Village and Post Asal Kheri (Churu HO), District Churu, at present employed on the post of EDBPM in the Branch Office Ghantel (HO Churu), Distt. Churu (Raj).

.....Applicant.

VERSUS

1. Union of India through Secretary to Government of India, Ministry of Communication, Department of Post, Dak Bhawan, New Delhi.
2. Director of Postal Services, Office of the Postmaster General, Rajasthan Western Region, Jodhpur.

3. Superintendent of Post Offices, Churu Division, Churu.

.....Respondents.

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Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
Hon'ble Mr. A.P. Nagrath, Administrative Member

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Mr. B. Khan, counsel for the applicant.

Mr. Vineet Mathur, counsel for the respondents.

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O R D E R

Per Mr. A.P. Nagrath :

The applicant is working as Extra Departmental Branch Post Master (EDBPM) Ghantel, Distt. Churu w.e.f. 14.3.1995 He is claiming

counting of his previous service, which he rendered as Extra Departmental Mail Carrier (EDMC) w.e.f. 13.9.1984 (AN) so as to determine his seniority against a regular Group D post. To this effect, he had submitted a detailed representation on 14.11.2000 which came to be disposed of by communication dated 17/20.11.2000 (Annex.A/1) under which he was informed that he had rendered service prior to 14.3.1995 in the capacity of a substitute. He submitted a further detailed representation on 15.2.2001 which was decided by an order dated 17.7.2001 (Annex.A/2) once again rejecting his claim for recognising the earlier service rendered by him as EDMC. By way of filing this application, the applicant has challenged these orders at Annexs. A/1 and A/2 and seeks a direction that the past service rendered by him w.e.f. 12.9.1984 be counted as qualifying service.

2. The brief facts in the back ground of this case as stated by the applicant, are that he was initially appointed as EDMC, Asal Kheri (Churu) on 13.9.1984 (AN). By an order dated 18.10.1988, the post of EDMC was abolished. Subsequently, under the orders of Inspector, Post Offices, Churu, dated 16.7.1990, he was ordered to takeover as EDMC at Buhand (Hamirwas) on which post he worked from 17.7.1990 to 9.4.1992. Later, when the post of EDMC, Depalasar (Ratan Nagar) fell vacant, the Inspector, Post Offices, Churu, transferred him to Depalasar, where, he took charge on 18.4.1992 and continued to work there till 9.2.1993. From 19.3.1993 (FN) to 6.3.1995, he worked as EDMC at B.S. Road, Churu. He was further sent on training from 6.3.1995 to 8.3.1995 and from 13.3.1995 (AN) and he has been working as EDBPM, Ghantel. His plea is that since he was continuously working as EDMC from 12.9.1984 to 1.11.1988 and again from 17.7.1990 onwards, the entire period of service rendered by him as EDMC, should count as qualifying service for eligibility for being considered

against a regular post in the department.

3. We find that from the reply of the respondents as also from the contents of the impugned orders at Annexs. A/1 and A/2, that the sole ground on which the claim of the applicant is being denied, is that service rendered by him from 17.7.1990 onwards till his absorption as EDBPM, was only as a substitute and that the rules do not permit counting of the service rendered by a substitute as a qualifying service.

4. Having heard the learned counsel for the parties and having perused the relevant records and orders issued relating to the applicant, we do not find any of the order suggesting that he was posted as EDMC only in a substitute capacity at Buhand (Hamirwas) or at Depalasar (Ratan Nagar) or at B.S. Road, Churu. The respondents have also failed to show us any record which would support their contention that the applicant was earlier appointed only as a substitute. We also find from the documents annexed by the applicant with the O.A. that initially on 12.9.1984 one Shri Shishupal Singh handed over the charge of EDMC, Asal Khedi to the applicant at his own and intimated the same fact to the Branch Post Master, Asal Khedi. The applicant has not been able to show us any document which would indicate the date of his regular appointment as EDMC. He has himself admitted in Para 4.1 of the averments that no formal order of regular appointment was issued in his favour. In his representation dated 15.2.2001 (Annex.A/10), while putting forth his claim for counting of his service w.e.f. 13.9.1984, he has himself requested that in the event his service w.e.f. 13.9.1984 cannot be recognised then atleast, his service from 18.7.1990, may be taken into account while working out the qualifying service. We consider this as a very fair

proposition in the facts and circumstances of this case.

5. The Instructions for absorption of E.D. Agents, rendered surplus, were issued initially by the DGP&T vide letter dated 23.2.1979 and later modified by letter dated 6.4.1989 as narrated in Section IV of Swamy's Compilation of Service Rules for Postal ED Staff in its VIII Edition of the year 2000. The Rules provide inter alia that the names of the E.D. Agents rendered surplus shall be kept in the waiting list for one year, to be considered for absorption at the same station or in the neighbourhood. As per the earlier instructions, waiting list was to remain current only for one year but later, by letter dated 6.4.1989, this was modified by providing that if the surplus E.D. Agents are not absorbed within a year due to ban on creation of new posts or due to non occurrence of vacancies, the waiting list could be extended beyond one year but every time only for one year at a time. The Instructions also provide that in case relaxation has been given to continue a person on waiting list and he is given an alternative post within the extended period, the interim period of non-employment will count as qualifying service for eligibility to take departmental examination of a Group 'D'/Postman.

6. Thus, having regard to these instructions we could have granted the benefit of the entire service rendered by the applicant w.e.f. 13.9.1984 (having been initially put to work w.e.f. 12.9.1984 A.N.). However, since the applicant has not been able to show to us any document regarding the date of his regular appointment as EDMC, we refrain from giving the benefit from any date prior to 17.7.1990 from which date he has continued to work till his regular posting as EDBPM. We have observed in the preceding paragraph that the orders posting him as EDMC from 17.7.1990 onwards, nowhere stated that he was being posted only as a substitute. In the facts and circumstances of this

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case, it is appropriate that atleast the length of service rendered by the applicant w.e.f. 9.7.1990 is counted to determine the length of qualifying service for all purposes. His own plea (as an alternative) in his representation dated 15.2.2001 is also to that effect.

7. We, therefore, allow this O.A. in part inasmuch as the applicant shall be entitled to count the service rendered by him as EDMC w.e.f. 17.7.1990 up to 13.3.1995 during which period he worked as EDMC in different branch post offices, as qualifying service for the purpose of determining any service benefits under the rules.

8. The parties are left to bear their own costs.


(A.P.Nagrath)
Administrative Member


(G.L. Gupta)
Vice Chairman

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