

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

O.A. NO: 441/2005

LUCKNOW, THIS THE 6TH DAY OF SEPTEMBER, 2005.

HON'BL SHRI SHANKER RAJU, MEMBER (J)

HON'BLE SHRI S.P. ARYA, MEMBER (A)

Dev Shanker aged about 35 years son of Sri Jageshwar r/o Village and Post Belahani, District – Rai Bareli.

Applicant.

By Advocate: Shri Sanjai Srivastava

Versus

1. The Union of India through its Secretary, Ministry of Post and Telecommunication, New Delhi.
2. The Superintendent of Post Offices, Rai Bareli.
3. The Assistant Supdt. Of Post Offices, Lalganj, Rai Bareli

Respondents.

By Advocate: Shri Q.H.Rizvi

ORDER(ORAL)

BY HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Heard the parties.

2. Earlier the applicant has approached this Tribunal by virtue of O.A. No. 368/2003 wherein by an order dated 4.9.2003 having cognizance of DGPT's letter dated 23.2.79, according to which efforts should be made to give alternative employment to ED agents who are appointed provisionally and discharged from service due to administrative reasons, if at the time of discharge they had put in not less than three years' service. In such cases their names should be included in the waiting list and for further re-engagement. In pursuance thereof, respondents passed an order which is impugned herein on 23.2.2005 where request of applicant has been turned down on the ground that he had not put in continuous service of three years on provisional basis to entitle him to be considered in accordance with instructions. Though DGP&T's instructions of 1979 in the wake of the decision of the Apex Court had been revised and the earlier one had been superseded by DGPT letter dated 21.7.2002 according to which completion of three years continuous service is condition precedent for consideration of provisional appointee who had been discharged on administrative ground.

3. In the above back drop it is stated by learned counsel for applicant that earlier for about 2 years and 7 months, he had worked for provisional basis in place of incumbent who had been facing disciplinary inquiry. It is however, not disputed that thereafter applicant stood discharged but he contends that Annexure A-5 of the O.A puts him back in service with continuity of service at the same place on his re-employment as the purpose of provisional appointment earlier was to occupy the post till the disciplinary proceedings are pending against the regular incumbent. Such proceedings has been proceeded on de-novo basis. Applicant states that this period of 7 months cannot be treated in isolation and would be a continuous service for the purpose of eligibility criteria laid down in DGPT letter.

4. We have carefully considered the rival contention of the parties and perused the material on record. On a grammatical interpretation of both the DGPT letter of 1979 and 2002, one thing is very clear that in the event a provisional appointee is discharged from service on administrative grounds, the condition precedent for his consideration to include his name in the waiting list is completion of three years continuous service.

5. As applicant earlier, for whatever reasons has rendered only 2 years 7 months service, he could not complete 3 years continuous service before his discharge. The second spell of employment though on the same place would not confer continuation of service on applicant as the second spell would be a new spell and in that event as he has not completed 3 years continuous service, he is not entitled for consideration as per DGPT's letter of 2002. In this view of the matter, as we do not find any infirmity in the orders passed by the respondents, O.A. is dismissed after hearing the learned counsel for the parties. No costs.


(S.P. ARYA)
MEMBER (A)


(SHANKAR RAJU)
MEMBER (J)

HLS/-