

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.74/2007
This the 21st day of February 2007

**HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN.
HON'BLE MR. A.K. SINGH, MEMBER (A)**

Nagendra Bahadur Singh aged about 46 years S/o Sri Visheshwar Singh Ex. E.D.S.P.M. Jalalpur Dhai District Raebareli.

...Applicant.

By Advocate: Shri R.S. Gupta.

Versus.

1. Union of India through the Secretary Department of Post Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P. Lucknow.
3. Superintendent of Post Office, Raebareli.

...Respondents.

By Advocate: Shri Atul Dixit holding brief for Dr. Neelam Shukla.

ORDER (Oral)

BY HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN

Heard Shri R.S. Gupta, learned counsel appearing for the applicant and Shri Atul Dixit holding brief for Dr. Neelam Shukla, learned counsel for the respondents on this O.A. The applicant has prayed that the opposite parties be commanded to count the break period from 29.5.2003 to 31.12.2003 as continuous service, for the purposes of promotion and for payment of salary, last drawn by the applicant, with all consequential benefits.

2. His case in brief is that it was on 18.9.1982 that he was provisionally appointed as EDSPM, Jalalpur Dhai, District Raebareli, in the vacancy caused by the dismissal of one Shri Kalika Prasad. He says



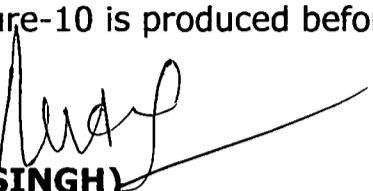
that Kalika Prasad was reinstated in service, in compliance of this Tribunal's order dated 14.11.2002 passed in O.A.No.385/1995 and thereupon, services of the applicant were terminated vide order dated 26.5.2003 without giving an alternative appointment to him in terms of D.G. Post letter No.19-34/99-ED&TRG dated 30.12.1999 of the Ministry of Communication, Department of Dak Bhawan, New Delhi. So the applicant filed one O.A.No.386/2003 and in compliance of the final order passed therein , the applicant was given alternative appointment. He says that the said O.A. was finally disposed of vide order dated 11.2.2004, copy of which is annexed as Annexure-8 to the O.A. The applicant says that firstly, the period in between his termination and reengagement/ re-appointment was not treated as continuous in service as provided in Para-3 of D.G. Post letter No.17-128/88-EDC & Training dated 06.04.1989 and secondly, his pay, which he was drawing before the date of his termination was no protected. He says that he has given representation to S.P.O., Raebareli (Annexure-9) and also to the CPMG, U.P., Lucknow, (Annexure-10 to this O.A.) but they have not taken any decision thereon.

3. We think that the question raised by the applicant by way of this O.A. has to be first considered and decided by the authority concerned and in case, the decision goes against the applicant only then he should come to this Tribunal. Sofar, the respondents have not passed any order turning down the request of the applicant, so there is no orders of which the applicant can be said to be aggrieved.

4. The O.A. is disposed of with a direction to the Respondent No.2 to consider and decide his representation dated 06.06.2005 (Annexure-10) by passing speaking order, in accordance with the

A handwritten signature in black ink, appearing to be a stylized 'V' or a similar mark, located at the bottom right of the page.

relevant rules on the above subject within a period of 3 months from the date a certified copy of this order together with the copy of Annexure-10 is produced before him. No order as to costs.


(A.K. SINGH)
Member (A)


(KHEM KARAN)
Vice-Chairman

Ak/.

21.2.07