

**CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW**

**Original Application No.363/2008**

**This the 26<sup>th</sup> day of July, 2012.**

**Hon'ble Dr. K.B.S. Rajan, Member (J).**

**Hon'ble Mr. S.P. Singh, Member (A)**

Sri Santosh Kumar Pandey aged about 48 years S/o Sri Sukhdeo Prasad Pandey GAO O/O D.A. (P), U.P. Circle, Lucknow.

..... Applicant.

**By Advocate: Sri 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. The Director of Accounts (Postal) U.P. Circle, Lucknow.
4. Senior Accounts Officer Admin-I (S) O/O D.A. (P) U.P. Lucknow.
5. Ms. Nivedita Srivastava D.A. (P) U.P. Circle, Lucknow.
6. Sri Arvind Gupta Senior Accounts Officer Admn-I (S) O/O D.A. (P) U.P. Circle, Lucknow.

.... Respondents.

**By Advocate: Sri Praveen Kumar holding brief for Sri K.K. Shukla.**

**ORDER**

**By Dr. K.B.S. Rajan, Member (J).**

The applicant joined as Postal Assistant in 1983 on regular basis. He qualified in the JAO Part II examination in 1993 and was promoted as ad hoc JAO in 2006. Vide Annexure A-6, dated 10-09-2008, the applicant was issued with a charge-sheet alleging certain misconduct when he was working in the account branch Nawabganj H.O. Kanpur during the period 01-10-1997 to 31-05-1998. And, in the wake of the above charge sheet, he has been reverted from the post of Ad hoc J.A.O. Vide impugned order dated 01-10-2008. The applicant has come up

against the aforesaid order of reversion and sought for the following reliefs:-

*“(i). That this Hon’ble Tribunal may kindly be pleased to quash the order dated 01.10.2008 as contained in Annexure No.1 and allow the applicant to work as JAO O/O D.A.P. U.P. Lucknow treating him continuing on the post of JAO O/O D.A.P. U.P. Lucknow with all consequential service benefits including pay and pay all arrears w.e.f. 01.10.2008 with 18% interest compoundable.*

*(ii). Any other relief deemed just and proper in the circumstances of the case in favour of the applicant.*

*(iii). Allow cost of O.A.”*

2. Respondents have contested the O.A. According to them, where an appointment has been made purely on ad hoc basis against a short-term vacancy or leave vacancy or if the government servant appointed to officiate until further orders in any other circumstances has held the appointment for a period less than one year, the government servant shall be reverted to the post held by him substantively or on regular basis when a disciplinary proceeding is initiated against him.

3. Counsel for the applicant contended that the issue of charge-sheet is ex facie illegal and as such the same should not come in the way of the applicant continuing in the ad hoc promotion Post. Counsel for the applicant relied upon the decision of the Apex Court in the case of State of M.P. Vs Bani Singh.

4. Counsel for the respondents on the other hand invited our reference to the order of the government as contained in order dated 24<sup>th</sup> of December 1986 (page 18 of Swamy's compilation on CCS(CC&A) Rules, 1965.

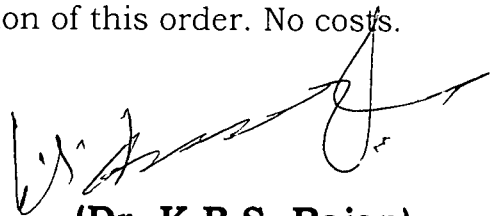
5. Arguments were heard and documents perused. Order dated 24<sup>th</sup> of December 1986 is specific. It stipulates that in the event of disciplinary proceedings being initiated within one year of the ad hoc promotion, the ad hoc promotion should be withdrawn and the individual should be reverted to his substantive post. In the instant case, the applicant's promotion to the post of JAO on ad hoc basis was on 06-10-2006 and the

initiation of proceedings by issue of charge sheet has been on 10-09-2008, which is more than one year after the ad hoc promotion of the applicant. As such, order dated 24<sup>th</sup> December 1986 cannot come in the way of the applicant. Hence, **the OA is allowed**. The impugned order dated 01-10-2008; reverting the applicant to the substantive post of Accountant is quashed and set aside. The applicant shall be posted back as JAO on ad hoc basis independent of the continuance of the Disciplinary proceedings. The period from 01-10-2008 till now shall be treated as if the applicant continued as JAO and the applicant shall be entitled to the difference in the pay and allowances for the intervening period. Respondents are directed to work out the same and pass suitable orders (a) for placing the applicant as JAO on ad hoc basis and (b) for disbursement of arrears of pay and allowances.

6. This order shall be complied with, within a period of two months from the date of communication of this order. No costs.



**(S.P. Singh)**  
**Member(A)**



**(Dr. K.B.S. Rajan)**  
**Member (J)**

*Girish/-*