

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW.**

ALLAHABAD this the _____ day of _____ 2012.

HON'BLE MR. B.V. RAO, MEMBER -J

Pronounced on 31-07-2012

HON'BLE MS. JAYATI CHANDRA, MEMBER -A

ORIGINAL APPLICATION NO. 275 OF 2009.

Tulsi Ram Yadav, aged about 38 years, son of Shri Devi Prasad, Resident of Village Mahmood Nagar, Post Office Gugauli District Balrampur (presently working as Gramin Dak Sewak Mail Deliverer, Branch Post Office, Gugauli (via Tulsipur), District Balrampur)

.....Applicant

V E R S U S

1. Union of India through the Secretary, Ministry of Communications, (Department of Post), New Delhi.
2. Superintendent of Post Offices, Gonda Division, Gonda.
3. Assistant Superintendent of Post Offices, Balrampur.
4. Post Master, Head Post Office, Balrampur.

.....Respondents

Advocate for the applicant: Shri R.C. Singh

Advocate for the Respondents : Shri S P Singh

Reserved on 19.7.2012

ORDER

BY HON'BLE MS. JAYATI CHANDRA, MEMBER -A

The applicant has prayed for quashing of impugned order dated 07.05.2009 and consequently granting of seniority, as Postman Grade 'D', salary differences etc. for the period from 26.7.2007 to 05.09.2008.

J. Chandra

2. Facts of the case are that the applicant was initially appointed as Extra Departmental Delivery Agent (EDDA) and he joined on 17.09.1991. Thereafter there is some history of termination of services, restoration of service on the basis of orders of Tribunal in O.A. NO. 395/92. The applicant appeared in the examination for the post of Postman/Village Postman for the year 2007. The applicant was declared successful in the examination held on 15.04.2007 and he was sent on training. After completion of training as Postman Trainee, he was posted at Balrampur Head Post office vide order No. B-7/2/Chap-II dated 24.07.2007 (Annexure A-4). On being relieved from his Branch Post Office Gugauli, he gave his joining at Balrampur head Post Office on 26.07.2007 on the post of regular Postman (Annexure A-5). He was not allowed to work as regular Postman and his posting order was suddenly cancelled on 31.07.2007 (Annexure A-6). Against the cancellation order, he filed O.A. NO. 491/07, in which an interim order was passed by which the order dated 31.7.2007 was stayed. But he was not allowed to join as Postman despite filing Contempt Petition No. 23/2008. O.A. No. 491/07 was disposed of with a direction to the respondent NO.2 to place the applicant in the same position in which he was pursuant to order dated 24.07.2007, before passing of the order dated 31.07.2007 (Annexure A-8). In pursuance of order thereof the applicant was allotted to Head Post Office Balrampur. The applicant accordingly assumed his duty as regular Postman on 06.09.2008 but his seniority in the cadre has not been fixed from 26.07.2007 and he has not been paid the arrears or difference of salary etc. The applicant

J. Chandra

submitted a representation dated 08.4.2009 (Annexure A-10). The representation of the applicant has been decided by the impugned order by which his claim for arrears of pay and seniority have been rejected.

3. In the counter reply, the respondents have admitted the factual position as narrated by the applicant up to the point of giving his joining on posting of order dated 24.07.2007. However, he never worked as Postman. He finally assumed charge as Postman w.e.f. 6.9.2008 in pursuance of the order of this Tribunal in O.A. NO. 491/07. The seniority of the applicant has been accorded as per result of qualifying the examination for the post of Postman held in 2007. However, since he had never worked in the post of Postman till 06.09.2008 but had continued to work in his earlier post, therefore, in keeping with the Departmental Rules of 'No Work No Pay', he is not entitled to the salary etc. given to Postman.

4. We have heard counsel for the parties and perused the records on file.

5. First of all we have seen that the applicant is guilty of misrepresentation. In that applicant has said that he has not been given his due seniority. However, it is seen from the impugned order that his seniority has been given as Postman in the Gradation List of 2007. The direction of the O.A. NO. 491/07 are quoted below:-

J. Chandra

"The impugned order dated 31.7.2007 is set aside with a direction to respondent No. 2 to place the applicant in the same position in which he was pursuant to order dated 24.07.2007, before passing of the impugned order dated 31.07.2007, within a period of two months from the date a certified copy of this order is produced before him"

There is no direction to the effect that he should be allowed to join as Postman with retrospective effect.

6. From the chronology event and paper produced before us, it is seen that the position of the applicant pursuant to order dated 24.7.2007 was that of Postman Trainee/G.D.S. For whatever reason he had not assumed full-fledged charge of the Postman. Therefore, the respondents have not erred in following the principle of "no work no pay". However, his pay etc. will be fixed as if he had joined on 26.7.2007 and at par with his immediate junior.

7. O.A. is disposed of. The respondents are directed to ensure that his pay etc. in the scale of Postman is fixed accordingly. No costs.

J. Chandre.
Member (A)

R. S. Kumar
Member (J)

Manish/-