

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW
ORIGINAL APPLICATION No: 451/2010**

This, the 1st day of March, 2011

**HON'BLE JUSTICE SHRI ALOK KUMAR SINGH, MEMBER (J)
HON'BLE SHRI S. P. SINGH, MEMBER (A)**

Jageshwar Yadav aged about 55 years son of late Suraj Bhan Yadav resident of Village-Pure Maddhu, Post Office-Rupamau, District-Raebareli.

Applicant

By Advocate Shri A. P. Singh.

VERSUS

1. Union of India through Secretary Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Lucknow Region, Lucknow.
3. Superintendent of Post Offices, Raibareli Division, Raebareli.

Respondents

By Advocate Shri Pankaj Awasthi for Shri R. Mishra.

ORDER (ORAL)

By Hon'ble Justice Shri Alok Kumar Singh, M(J)

This O.A. has been filed for the following relief(s):-

- (a) To issue an order or direction setting aside the impugned letter dated 28.8.2010 issued by the opposite party No. 3 vide which he asked the names of suitable candidate from the Employment Exchange, Raebareli for the post of Branch of Post Master as contained in Annexure No. A-1 to the Original Application and also quashed the impugned letter dated 21.09.2010 issued by the opposite party No. 3 as contained in Annexure No. A-2 after summoning the original from the records.
- (b) To issue an order or direction directing the respondents to permit the applicant to perform his duties to the post of G.D.S.B.P.M.Rupamau District Raebareli as he has performed the same since 02.07.2004.

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- (c) To issuing passing an order or direction directing the opposite party No. 3 to consider the case of the applicant for regularization of his services against the v vacant post of G.D.S.B.P.M. Raebareli within a stipulated period.
- (d) Any other order direction which this Hon'ble Tribunal may deem fit and appropriate in the interest of justice.
- (e) Allow this original application with cost.

2. The case of the applicant is that he was initially appointed to the post of G.D.S. Delivery Agent at Branch Post Office Rupamau on 10.02.1986 after due selection. It so happened that one Shri Dev Bux Singh, who was working as Branch Post Master, Post Office Rupamau, was put-off from duty on 30.6.2004 and the applicant was given charge of that post under the orders issued by opposite party No. 3 vide memo dated 2.7.2004 (Annexure -A-3). Since then i.e. for about more than 6 years, he has been discharging his duty on that post satisfactorily without any complaint. Some inspection reports of the year 2004,2005 and 2009 (Annexure-A4, A5 and A6) have also been filed by the applicant in this regard. On the other hand, the duties to the post of GDS, Delivery Agent, the post on which he was duly selected, is being discharged by one Shri Jagdish Prasad Maurya since 31.7.2004. Subsequently Deb Bux Singh was removed from service on 6.12.2007 and consequently, the said post became vacant substantively. The opposite party No. 3, all of sudden, issued the impugned letter dated 28.8.10 to the employment officer calling for the names of eligible candidates for the post of GDS Branch Post Master,Rupamau. The applicant, therefore, made a representation dated 6.9.10(Annexure A-7) before the opposite party No. 3 apprising him all the facts and

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requesting for his regularization on the said post. The opposite party No. 3 however, rejected the representation dated 6.9.10 by means of letter dated 21.9.10 (Annexure A-2) saying that the applicant was only attached temporarily to work on the said post in question and it does not mean that he was regularly appointed on that post. It has been also mentioned that nevertheless, if the applicant wants regular appointment he can apply in accordance with the GDS (Conduct and Employment) Rules 2001 and the same shall be considered in accordance with the rules. Feeling aggrieved by this order/letter, the applicant filed this O.A.

3. From the other side, it is said that the applicant was ordered to perform the duties in question i.e. G.D.S.B.P.M. , Rupamau as a temporary arrangement. After the removal of Shri Dev Bux Singh from the post of G.D.S. B.P.M. on 6.12.2007, the said post was advertised for recruitment. Instead of applying for regular appointment, the applicant had filed an application/representation dated 6.9.2010 for his regularization without participating in the selection process. It is further said that the applicant has no locus standi to challenge the memo dated 28.8.10. The notification has already been issued for recruitment on the said post and his representation has been rightly rejected. However, an opportunity has been given to him to apply against the said post if he so wishes.

4. We have heard the learned counsel for the parties and perused the material on record.

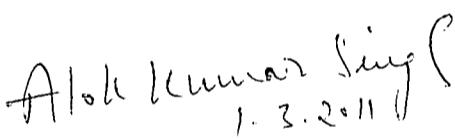
5. The learned counsel for the applicant places reliance on the final order dated 18.8.2010 passed by this Bench in O.A. No. 346/2010 Smt. Suman Singh Vs. Union of India and Others (Annexure-8) and confines his arguments to the extent that the applicant may be permitted to make a fresh representation to the next higher

authority/competent authority which may dispose it within a stipulated period by means of speaking order. As far as this request is concerned, there is no substantial objection from the side of the learned counsel for the respondents.

6. Having regard to the facts and circumstances of the case and keeping in view the above request, this O.A. is finally disposed of with an observation that the applicant may move a fresh comprehensive representation within a period of 10 days from today to the next higher authority/competent authority to dispose of his representation. The Next higher authority shall dispose of the said representation within a period of 2 months from the date of submission of the fresh representation by passing speaking order according to rules. Till the aforesaid stipulated period, the status quo shall be maintained in respect of the selection process in question.

7. No order as to cost.


(S.P. Singh)
Member (A)


Alok Kumar Singh
1.3.2011
(Justice Alok Kumar Singh)
Member (J)

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