

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW**

**Original Application No.155/2012
This the 04th Day of April 2013**

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Amanullah, aged about 61 years, son of Jamanullah,
resident of Gari Peer Khan, Chowk, District-Lucknow.

...Applicants.

By Advocate: Sri Dharmendra Awasthi.

Versus.

1. Union of India, through Chief Post Master General (C.P.M.G.), U.P. Circle, Lucknow.
2. Director, Post Account, Uttar Pradesh, Division, Lucknow.
3. Senior Superintendent of Post Offices, Lucknow Division, Lucknow.
4. Assistant Superintendent of Post Offices, Western Sub-Division, Lucknow-226007.
5. Senior Post Master, Pradhan Post Office Chowk, Lucknow.

.... Respondents.

By Advocate: Sri Ganga Singh

ORDER (Dictated in Open Court)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

In this O.A., the reliefs have been sought in the following manner:-

- (a). direct the respondents to fix the family pension and pension and issue the pension payment order to

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* corrected
by order dated
30.10.2013 -
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the applicant and also made payment of arrears alongwith cumulative interest @ 8%.

(b). decide the representation dated 3.3.2012 given by the applicant, which is still pending on the part of the respondents.

(c). Pas any other suitable order or direction which this Hon'ble Tribunal may deem, fit, just and proper under the circumstances of the case in favour of the applicant.

(d). allow the present original application of the applicant with costs."

2. Briefly stated, the case of the applicant is that since 27.04.1984 the applicant had continuously working as Chowkidar at Chowk Head Office, Lucknow till date of grant of temporary status on 29.11.1989. After grant of temporary status the applicant was treated at par with Group-D employee w.e.f. 29.11.1989, which is evident from the Gradation List of Casual Labour (Temporary Status) of Lucknow Division, which was issued on 29.03.2011 (Annexure-1). This Scheme for grant of temporary status at par with Group-D employee was drawn up in compliance of the directions of Hon'ble Supreme Court vide Ministry of Communication, Department of Post Order dated 12.04.1991 (Annexure-2). Vide order dated 30.11.1992 all the Heads of Postal Circles under C.P.M.G., U.P. Circle were informed that all the casual labours under the category of temporary status, who have successfully completed three years service would be treated at par with the Group-D employee and as such would be entitled to such benefits as are admissible to Group-D employees on regular basis. (Annexure-3). The Central Administrative Tribunal, Allahabad Bench has already granted the relief of family pension to the similarly situated employee's widow Smt.

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Chandra Devi Bhatt in O.A.No.518/1996 vide order dated 21.07.2000 (Annexure-4). The same view was taken in another O.A.No.917/2004 by the same bench (Annexure-5). The Central Administrative Tribunal, Lucknow Bench has also taken similar view in O.A.No.383/2003 decided on 22.09.2011 (Annexure-6). The present applicant moved a representation dated 15.07.2011 (Annexure-7) through his daughter Ms. Husna Jamal. Then applicant after his superannuation on 31.07.2011 himself submitted a representation dated 03.03.2012 (Annexure-8) seeking pension. But, the respondents have not paid any heed. Hence this O.A.

3. The O.A. has been contested by filing a Counter Affidavit admitting that the temporary status was conferred on the applicant from 29.11.1989 in compliance of the direction of Hon'ble Apex Court on the basis of which a scheme was brought into existence by the department with the consent of Ministry of Law, Finance and Personnel. It was also circulated vide Circular No.55-95/87-SPB-I dated 12.04.1991 under the signature of Director General of Post Offices (Annexure-2). It has been also admitted that after completion of three years he had to be treated as par with temporary status employee w.e.f. 29.11.1992. Further, it has been also said that the applicant has become entitled to certain benefits admissible to temporary Group-D employees and as such, after his retirement he was paid CGEGIS of Rs.6,173/-. But, according to other averments contained in the counter affidavit the temporary status Govt. Servant cannot be equated with temporary Group 'D' employees and as such the

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applicant is not entitled to get pension under CCS (Pension) Rule, 1972.

4. A Rejoinder Affidavit has also been filed reiterating the averments made in the O.A.

5. Heard the learned counsel for the parties and perused the entire material on record.

6. At the outset, it may be mentioned here that the relevant portion of Communication No.66-9/91-SP-I dated 30.11.1992 is as under:-

“2. In their judgment dated 29.11.1989, the Hon’ble Supreme Court have held that after rendering three years of continuous service with temporary status, the casual labourers shall be treated at par with temporary Group ‘D’ employees of the Department of Posts and would thereby be entitled to such benefits as are admissible to Group ‘D’ employees on regular basis.”

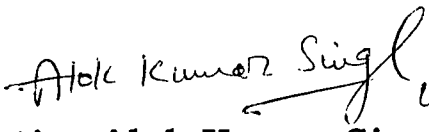
7. From the perusal of the above paragraph, it clearly comes out that vide judgment dated 29.11.1989, the Hon’ble Supreme Court has laid down that after rendering three years of continuous service with temporary status (which the applicant has admittedly rendered), the casual labourers shall be treated at par with temporary Group ‘D’ employees of the Department of Posts. Not only that, it is further mentioned in the above paragraph that such employees would be entitled to such benefits as are admissible to Group ‘D’ employees on regular basis. This clearly means that in view of preposition of law laid down by the Hon’ble Apex Court, after three years of continuous service the regularization has to be deemed in favour of the such employees including the applicant. Consequently such employees

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would be entitled to such benefits as are admissible to temporary Group 'D' employees on regular basis.

8. In addition to the above, from the side of the applicant, reliance has also been placed on the judgments rendered by Central Administrative Tribunal, Allahabad and Lucknow Bench as mentioned in para 2 of this order by which the present case appears to be squarely covered.

9. There appears no serious quarrel on the point that the aforesaid matters were similar to the present one. Therefore this Tribunal has no justifiable reason to take a different view. Similarly situated persons cannot be treated differently. This O.A. therefore deserves to be and is, accordingly allowed with an observation that the applicant is entitled to such retiral benefits as are admissible to Group-D employees on regular basis. Therefore, the respondents are directed that the pension and remaining retiral benefits pending, if any, including arrears, if any, admissible to the applicant may be considered and paid in accordance with the relevant rules and established practice alongwith an interest @ 8% per annum till the date of actual payment. No order as to costs.

 4.4.13
(Justice Alok Kumar Singh)
Member (J)

Amit/-