

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING HELD AT BILASPUR

Original Application No. 695 of 2004

Bilaspur, this the 12th day of May, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri A.K. Bhatnagar, Judicial Member

Ajay Kumar Sahu, S/o. Shri Kishorilal
Sahu, age about 38 years, Ex. Driver,
O/o. DPS Raipur, P/R : H. No. 1, Shanti
Niwas, Laxmi Nagar, PO/Thana/Tehsil/Distt.
Raipur. ... Applicant

(By Advocate - Shri S.T.H. Rizvi)

V e r s u s

1. Union of India, Rep. through
the Secretary, Ministry of Communications,
Govt. of India, Deptt. of Posts, Dak
Bhawan, New Delhi.
2. The Chief Postmaster General,
CG Circle, Raipur.
3. The Director Postal Services,
O/o. the Chief PMG CG Circle,
Raipur.
4. The Sr. Supdt. of Post Offices,
Raipur Division, Raipur.
5. The Supdt. of Post Offices,
Bilaspur Division, Bilaspur.
6. The Senior Postmaster, Raipur
HO. ... Respondents

(By Advocate - Shri S.P. Singh on behalf of Shri P.
Shankaran)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has
claimed the following main reliefs :

"(i) the CPMG Raipur may kindly be directed to be
entitled the applicant to notional appointment to the
regular cadre w.e.f. the date of first regular
appointment in the cadre subsequent to completion of
one year of the applicant's casual service on daily
wages with benefits of seniority and notional pay
fixation,

(ii) he may also be directed to issue orders for
age relaxation,

(iii) artificial/technical breaks in service may
be directed to be condoned with attended benefits,

(iv) the impugned order of the SSPO's Raipur
dated 10.2.2004 (Annexure A-1) may kindly be

quashed and he may kindly be directed to absorb the applicant as driver for Mail Motor Vehicle (Speed Post) immediately,

(v) the CPMG Raipur may kindly be directed to afford a valid opportunity to the applicant to get his services regularised,


(vi) the applicant should be given one more opportunity for being considered for regular appointment after giving relaxation of age requirement,

(vii) the applicant be given seniority benefits of driver on daily wages service and also for regular appointment in preference to ED officials who were junior to him as Driver,

(viii) the CPMG Raipur has not merged 50% of Dearness Allowance with basic pay for computation of daily rates of wages of the applicant. He may kindly be directed to pay difference of daily wages w.e.f. 1.4.2004 to the applicant,

(ix) liberty may kindly be granted to the applicant to approach this Hon'ble Tribunal again in case, he is still aggrieved by the orders of the Chief PMG, Raipur."

2. The brief facts of the case are that the applicant was initially appointed as Driver Mail Motor (Speed Post) in Raipur Headoffice, on daily wages w.e.f. 2.8.1997, vide order dated 1.8.1997. According to the applicant he was selected after passing necessary tests. After the bifurcation of the State of Madhya Pradesh into Madhya Pradesh and Chhattisgarh circles, the applicant was ordered to work as Driver in the office of Chief Postmaster General with effect from 27.2.2002 on daily wages. It is submitted by the applicant that two vacancies of the post of Driver were notified by the Bilaspur Division in the month of February, 2004 and the applicant also applied for the same. But subsequently, the applicant was informed that he has become overage and he was not called for interview. The grievance of the applicant is that after working for continuous period of 7 years the services of the applicant have not been regularised and instead the respondents have dispensed with the services of the applicant w.e.f. 10.2.2004. Hence, this Original

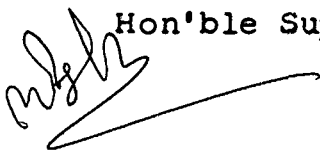


Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. The learned counsel for the applicant has submitted that the applicant has worked as Mail Motor Driver (Speed Post) for a period of 7 years and thereafter his services were dispensedwith/terminated. Infact there were vacancies available for the post of Driver and the applicant could have been considered for regular appointment as per rules. To support his claim he has relied upon the judgment of the Jodhpur Bench of the Tribunal in the case of Smt. Santosh Vs. ICAR, New Delhi and Anr. dated 19.8.2004 in OA No. 291/2003. In this case the Tribunal has held that persons employed continuously for 2-3 years cannot be said to be working on casual basis and there is a presumption that there is regular work. It is further observed that employees appointed by way of stopgap arrangement and are continued for more than 2 years who were possessing the requisite qualification become entitled for regularization and they should be regularised. In view of this the applicant possessed all the conditions and he was also not overaged on the date he was called for interview for selecting candidates for the post of Driver. Infact the period of services rendered by him from 1997 should have been excluded for deciding the eligibility in terms of age as per rules. The same has not been done by the respondents in this case. In view of this direction be given by the Tribunal to regularise the services of the applicant.

5. On the other hand the learned counsel for the respondents stated that as per the recent judgment of the Hon'ble Supreme Court the daily wagers have no right for



regularisation. Since the applicant has been working on daily wages and at present there is no vacancy against which he could be considered for regularisation, his request for regularisation cannot be considered.

6. We have given careful consideration to the rival contentions made on behalf of the parties and we find that the applicant has been working as a Driver from August 1997 with the Postal authorities. The respondents have made regular selection for the post of Driver in the year 2004. The applicant has also applied but he could not participate in the selection on the ground of being overaged. The vacancies have been filled up and consequently the services of the applicant have been dispensed with.

7. In view of the facts and circumstances of the case, this Original Application can be disposed of by directing the respondents to consider the case of the applicant for re-engagement as a Driver in future as and when there is available work or vacancies/in preference to the freshers/juniors. We do so accordingly. No costs.

(A.K. Bhatnagar)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठकन सं ओ/व्या.....जबलपुर, दि.....
प्रतिनिधि अवधि:-
"SA" (1) सचिव, उच्च न्यायालय काउंसिल, जबलपुर
(2) आवेदक श्री/श्रीमती के काउंसल
(3) प्रत्यक्षी श्री/श्री के काउंसल
(4) जज, उच्च न्यायालय, जबलपुर
सूचना एवं आचार्यक अर्थात् नती हयु
रजिस्ट्रार

S.T.H. Rizvi
P. Shankar
B.K.

Issued
on 20.5.05
BB