

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR.
JABALPUR

Original Application No. 921 of 2003

Jabalpur, this the 10th day of February, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Swami Mohan, S/o. Lakshman Rayakwar,
Aged 47 years, Occupation – Service,
Resident of 72/1, Amar Tekri, Indore (MP). Applicant

(By Advocate – Shri O.P. Dubey)

V e r s u s

1. Post Master General, Post Office,
Indore-1 (MP).
2. Director Postal Service, Indore City
Zone/Circle, Indore (MP).
3. Senior Superintendent, Post Offices,
Indore City Zone, Indore-7 (MP).
4. Assistant Superintendent (East),
Indore City Zone, Indore (MP).
5. Purushottam Pal, S/o. not known,
Aged 49 years, Occupation-Service,
Resident of – Post Office, Industrial Estate,
Indore-15.
6. Ramlal Chaudhary, S/o. Not Known,
Aged 48 years, Occupation – Service,
Resident of – Post Office Kanadiya Road,
Indore – 16.
7. Ravindra Thakurware, S/o. Not known,
Aged – 46 years, Occupation – Service,
Resident of – Post office, C.T. Two,
Indore -2.
8. Govind Lambhate, S/o. not known, Aged – 48
Years, Occupation – Service, Post Office

Vallabh Nagar, Indore – 3.

9. Dinesh Johsi, s/o not known, aged – 42 years,
Occupation – Service, Resident of – Post Office,
Industrial Estate, Indore – 15.
10. Union of India, through Secretary,
Ministry of Communication, New Delhi. Respondents

(By Advocate – Shri U. Gajankush)

ORDER

By Madan Mohan, Judicial Member –

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

“.....the appellant be get received/awarded from the respondents No. 1 to 4 the rank of Male Peon according to the seniority and all the interest benefit to be accrued therefrom, therefore the orders be kindly issued,

.....the whole cost of this submitted/instant appeal be get received/awarded to the appellant. Honourable Tribunal whichsoever the essential and proper relief may deem fit in the interest of the appellant in accordance with law, that be get received.”

2. The brief facts of the case are that the applicant had been appointed on 6.2.1976 in the department of the respondents on the post of Extra Departmental Vivaran/Mail Agent. The applicant continued his work on the said post since 6.2.1976 to 11.8.1980. Vide order dated 12.8.1980 the applicant was put of from his duties. No intimation was given to him and no enquiry proceedings were held against him. In a criminal case No. 2133/85 against the applicant, the Judicial Magistrate First Class decided the case on merits and the applicant was acquitted vide order dated 29.2.1996. Thereafter the applicant sent a letter on 13.4.1996 to the official respondents. The respondents vide order dated 4.3.1998 reinstated the applicant. The respondents Nos. 5 to 9 who were junior to the applicant were appointed in the service after the applicant were promoted

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to the rank of Mail Peon in the office of the respondents Nos. 1 & 2. Their salary has been increased. The applicant submitted a representation in this regard but it was not considered. Hence, this Original Application is filed.


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

4. It is argued on behalf of the applicant that the applicant was put of from duty vide order dated 12.8.1980. He was acquitted from the criminal trial vide order dated 29.2.1996 by the concerned judicial court and the judgment was passed on merit. Thereafter the applicant was reinstated by the respondents vide order dated 4.3.1998. The respondents did not provide any opportunity to the applicant while declaring him surplus. The respondents Nos. 5 to 9 were junior to the applicant but their promotion was considered by the respondents while the applicant was ignored. The whole action of the respondents is illegal and unjustified.

5. It is argued on behalf of the official respondents that the post on which the applicant was serving was abolished on 30.11.1983. Hence the applicant was ordered to be kept as surplus. Legally it is not informed to the applicant under such circumstances. The applicant was not acquitted on merit in the criminal trial by the judicial court but he was acquitted on benefit of doubt. The applicant was appointed as provisional and the learned counsel for the respondents has drawn our attention towards Annexure R-2 a letter written by the applicant to the respondents in which he has mentioned that on abolition of the post in 1980 the applicant was not kept in service and he was kept under the list of surplus. Hence, it is requested that he be given new appointment and he shall not produce any claim on the basis of the past record and he be appointed from today on the new appointment. He has no objection at all. He further argued that the respondents Nos. 5 to 9 who had appeared in the examination and on successful in the examination, were promoted. It does not relate to any

seniority of the applicant at all. He has also drawn our attention towards Annexure R-3 and argued that the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the applicant was ordered to be put off from duty vide order dated 12.8.1980 and he was reinstated vide order dated 4.3.1998 mentioning the fact that on 30.11.1983 the post on which the applicant was serving in Kazarana Post Office was abolished. Hence, he was kept in the list of surplus employees. We have perused the judgment given by the concerned judicial court in criminal case No. 2133/85, dated 29.2.1996 and find that the applicant was acquitted by giving benefit of doubt by the concerned court. We have also perused the letter written by the applicant in his own handwriting in which it is clearly mentioned that he was serving on the post of EDMC, Kazarana Post Office and in the year 1980 after abolition of this post he was not kept in service and as the matter was pending in the court he was put off from duty and after passing of the judgment by the concerned court in 1996 he was reinstated. He has specifically requested the respondents for providing new appointment and he has also mentioned that he shall not claim about his past record. He has no objection if he is given new appointment from today. The applicant has not said anywhere that this letter was obtained from him by the official respondents by any threat, promise or undue inducement. Annexure R-3 also shows that the appointment of the applicant was provisional for the said post. We have perused Annexure R-1 also which shows that departmental enquiry proceeding is still pending against the applicant and the respondents Nos. 5 to 9 have appeared in the examination and on having been successful in the said examination were promoted. In this regard the contention of the applicant is baseless.



7. In view of the aforesaid, we are of the considered opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पूठांकन सं ओ/न्या... जयलपुर, दि.....
प तिलियि अ जो रिजि...

- (1) सचिव, उच्च न्यायालय का कार्यालय, जयलपुर
- (2) आवेदक श्री/श्रीमती/पु... के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/पु... के काउंसल
- (4) बंधपाल, को.प्र.अ. जयलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Issued
On 18.2.05
BS

Re-issued

To

Sh. Swarni Mohan

72/1 Anwar Tekri

Prdane

74/31000

उप रजिस्ट्रार

DY. REGISTRAR

कैन्द्रीय प्रशासनिक अधिकरण

CENTRAL ADMINISTRATIVE TRIBUNAL

जयलपुर बेंच, जयलपुर

JABALPUR BENCH, JABALPUR

Re-issued
On 14.3.05
BS