

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.946/2003

New Delhi, this the 29th day of March, 2004

Hon'ble Shri S.K. Naik, Member(A)

Mahmood Hussain  
272-Bara Kasai-Para  
Sadar Bazar, Mathura

.. Applicant

(Shri D.P. Sharma, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Communication  
Department of Posts  
New Delhi
  2. Chief Postmaster General  
UP Circle, Lucknow
  3. Postmaster General  
Agra Region, Agra
  4. Senior Supdt. of Post Offices  
Mathura Division, Mathura
- .. Respondents

(Shri N.S. Mehta, Sr. Counsel)

ORDER(oral)

Applicant is aggrieved by the communication dated 5.9.2002 by which his request for regularisation in the post of Mail Motor Driver has not been acceded to in the absence of regular post available. According to the applicant, he was engaged as daily-rated Mail Motor Driver w.e.f. 19.4.85 after being sponsored by the Employment Exchange and he had been working continuously till 19.1.93 when his services were terminated. However he was taken back again by the orders of Respondent No.2. His services were again terminated by an oral order on 26.8.94 against which he had filed OA 1767/1994 before the Allahabad Bench of the Tribunal, which was disposed of on 25.5.1998 directing the respondents to take him back in service. Thereafter, he was again re-engaged. He made a representation 10.5.2002 for his regularisation which has not been acceded to giving rise to this OA.

2/2004

2. Respondents in their reply have contested the case and have stated that one post of Mail Motor Driver has been lying vacant since long but the same could not be filled due to ban. Applicant was engaged as an Outsider Mail Motor Driver w.e.f. 19.4.85 on purely temporary basis with the clear instructions that his engagement was purely temporary and can be terminated at any time without assigning any reason. He was ordered to be relieved on 13.1.93 due to objection raised by the Audit Party. He made a representation on 18.1.93 and he was taken back on duty from 23.8.94. As regards his regularisation, RO Agra was addressed on 23.8.94 to issue approval for constituting DPC for selection of Mail Motor Driver against the vacant post. In the meantime, applicant was found involved in a fraud case but no disciplinary action was initiated against him being a daily wager. However, he was not allowed to perform duty from 26.8.94. He filed OA 1767/94 before Allahabad Bench of the Tribunal and in pursuance to the Tribunal's directions he has been taken back on duty. However, it is not possible to regularise his services in the absence of vacant post.

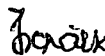
3. I have heard the counsel for the parties and perused the records.

Judge

3

4. The fact that the applicant has been working with the respondents since 18.4.85 and that one vacant post of Mail Motor Driver is available with the respondents are not in dispute. In other words, respondents still need the services of the applicant. In such a situation, I feel that ends of justice would be duly met if the respondents are directed to consider the case of the applicant while filling up the post of Mail Motor Driver, fallen vacant by the retirement of Shri Narain Singh, on regular basis in accordance with R/Rules and instructions on the subject, within a period of four months from the date of receipt of a copy of this order. I do so accordingly. Respondents should also consider giving age relaxation to the applicant to the extent of service rendered by him with them while considering his eligibility.

OA is thus disposed of. No costs.



(S.K. Naik)  
Member(A)

/gtv/