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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 2317/2002

NEW DELHI THIS. 14th DAY OF MAY 2003

HON'BLE SHRI KULDIP SINGH, MEMBER (J)
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. All India CPWD (MRM) Karamchari,
Sangathan (Regd.)
through its President, Shri Satish Kumar,
4823, Balbir Nagar Extn. Gali No. 13,
Shahdara, Delhi -32
2. Sher Singh S/o Shri Hukam Singh,
Asstt. Plumber
C/o All India CPWD (MRM) Karamchari Sangathan,
through its President, Sh. Satish Kumar,
4823, Balbir Nagar Extn., Gali No. 13,
Shahdara, Delhi 32.

.....Applicants
(By Ms Shilpa Chauhan, Advocate)

VERSUS

1. Union of India,
through its Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi
2. The Director General (Works) CPWD
Nirman Bhawan,
New Delhi
3. The Superintending Engineer (Elec.)
Elec. Co-ordination Circle,
CPWD, R K Puram, New Delhi
4. The Executive Engineer,
PWD, Dvn. IV, Hauz Khas Police Colony,
IIT Gate, New Delhi

.....Respondents

(By Shri George Paracken, Advocate)

O_R_D_E_R_(SPL)

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Regularisation of the applicant (and such like
persons) against the post of Plumber with the respondents
is the relief sought for in this OA. While applicant No. 1
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is the Association, applicant No. 2 is an individual who desires posting in the higher category and he belongs to the Scheduled Caste.

2. Ms. Shilpa Chouhan for the applicants and Shri George Paracken for the respondents appeared during the oral submissions.

3. Applicant No.2 who holds National Trade Test of Plumber applied for was selected and posted accordingly as Plumber. In between he was reverted as Assistant Plumber. As in terms of CPWD, OM dated 7.5.1997, whereunder all categories were abolished and merged in higher cadre (full category). In view of the above, the post of ^{Asst} Plumber should be deemed to have been continued as Plumber. In February 1990, the applicant had cleared the requisite medical test and his first entry certificate had shown him as working as Plumber. The applicant had also cleared the interview on 22.1.1993 for regularisation as Plumber but results were not announced in time and the applicant was forced to continue in the same position. His representation for the grant of status (as Plumber) was turned down by the respondent as he had been working only as Assistant Plumber. He was granted temporary status on 6.8.1999 in view of DOP&T's scheme of 10.9.1993. On 31.7.1995, he filed yet another representation against his reversion. The trade test results were announced on 30.3.1997, as many as four years after the test, while CPWD Manual had provided that the test results should be announced within a month. Following the adoption of the Vth CPC recommendations, the applicant's pay scale as Assistant Plumber was fixed on 3.12.1997 in the scale of Rs.2650-4000/- w.e.f. 1.1.1996. His further

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representation for regularisation dated 27.3.2001 had not yielded any positive response from the respondents. This delay is against the specific direction in CPWD Manual and this has affected the applicant adversely because he has been kept on muster roll for too long a period. This was also against the Directive principles of State Policy. Respondents have not taken any steps to alleviate the misery of the applicant and this inspite of the directions of the Hon'ble apex Court in the Writ Petitions No.563-70/83 filed by Surender Singh & Others whereunder respondents were advised to take steps to regularise the services of those who had put in more than 6 months of continuous service. Besides, the decision of the Hon'ble Supreme Court in Bhagwati Devi vs. UOI (AIR 1990 SC 371) and of the Tribunal dated 15.11.2000 in OA No.1550/1999, dated 28.3.2001 in OA 1923/1999 and dated 6.6.2001 in OA 845/2000 would come to the rescue of the applicant. Hence the OA.

4. Grounds raised in the OA are that:-

- a) applicant was entitled for regularisation as Plumber;
- b) his reversion from Plumber as Asstt. Plumber was irregular;
- c) his refixation of pay as Asstt. Plumber was improper;
- d) a few decisions are in his favour;
- e) denial of equal pay and benefit was improper;
- f) regularisation in the capacity as Plumber and refixation of pay accordingly could not have been denied.

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All the above points were reiterated by Ms. Shilpa Chohan appearing for the applicants

5. In the counter affidavit filed on behalf of the respondents, it is pointed out that the merger referred in OM dated 7.5.1997 was applicable only in respect of workmen under the work charged categories and those who were on the

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rolls of CPWD on 1.4.1981 and was not applicable to daily rated workers. The applicant was a daily rated worker engaged after 1.4.1981. The applicant was attending to annual repairing and maintenance work, relating to staff quarters, daily rate wages of Rs.21.25 and was assigned plumbing duties. He was granted temporary status in terms of 1993 scheme and fixed in the pay scale of Rs.800-1150/-.

He was given temporary status as Assistant Plumber in the replacement grade of rs.2650-4000/- on 3.12.1997 w.e.f. 1.1.1996, and he is likely to be considered for regularisation in the grade in his turn. The applicant had been dealt with in accordance with the Rules and has been granted temporary ~~jobs~~ ^{status}. No violation of any of the constitutional protections had taken place. He was a daily rated wage earner and he was not working against any specific post and the question of his reversion from the post of Plumber to Assistant Plumber did not arise.

Arbitration award of 31.1.1988 was not at all applicable in the case of those like the applicant as he was only a daily rated wager with temporary status. Merely because a daily wager clears medical examination, regularisation does not follow ^{automatically} as claimed by the applicant and he has to wait his turn for regularisation. He was never appointed as a Plumber and therefore, to claim that he was reverted as Assistant Plumber was incorrect. Once his turn comes he would be considered for regularisation in accordance with Rules and instructions in force and no violation of any of the fundamental rights or directive principles of State Policy has taken place.

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6. In their rejoinder the applicants reiterate their pleadings and aver that the OA should be allowed and justice rendered to the applicants who have been forced to remain as muster roll workers for over fifteen years.

7. We have carefully considered the matter. The applicants in this OA are seeking regularisation in the post of Plumber. While he was a muster roll worker from 1986, he has been appointed as Asstt. Plumber in 1990 and thereafter granted temporary status in that grade with the appropriate grade and scale of pay. Originally he was a daily rated worker and keeping in mind his training and trade he was made Asstt. Plumber. All the communications therein refer to the applicant only as Asstt. Plumber and no order has been produced by the applicant that he had been appointed as Plumber. It is also seen that the post of Asstt. Plumber has been merged with that of Plumber in terms of CPWD's OM No.22/9/93-EC.X dated 7.5.1997, and reclarified as skilled workmen. The OM goes on to state that the merger_is_applicable_only_in_respect_of_workmen under_the_work_charged_categories_and_those_who_were_on_the rolls_of_the_CPWD_on_1.4.1981_and_is_NOT_applicable_to_any kind_of_daily_rated_workers. It is on record that the applicant is a daily rated wager, who was given plumbing duties because of his trade, and who was engaged in 1986. That being the case, he does not fulfil either of the conditions for being regularised in the grade of "skilled workman" Plumber. On the other hand, he has been appointed as Asstt. Plumber and granted temporary status in that grade with appropriate scale of pay. Respondents have also undertaken that he would be regularised in turn, in accordance with Rules. Nothing further can be asked for

can be and/or granted in this case. Facts being different none of the decisions relied upon by the applicants would come to their assistance. -6-

8. In the above view of the matter, applicants have not, to our mind, brought out any case for our interference. OA, therefore, fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)
(Govindan S. Tampi)
Member (A)

B. Patel/

K. Singh
(Kuldip Singh)
Member (J)