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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.653/2002

New Delhi, dated this the 10th day of April, 2003

Hon'ble Shri Justice V.S.Aggarwal, Chairman
Hon'ble Shri S.K.Malhotra, Member(A)

Vijay Kumar
4823, Balbir Nagar Extn.
Gali No.13, Shahdara, Delhi-32 .. Applicant

(Shri Rajesh Singh, proxy for Shri Naresh Kaushik,
Advocate)

versus

1. DG of Works, CPWD
Nirman Bhavan, New Delhi
2. Superintending Engineer
Coordination Circle (Elect)
CPWD, East Block, RK Puram, New Delhi
3. Executive Engineer
PWD, Division No.IV
Hauz Khas, New Delhi
4. Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi .. Respondents

(Shri George Paracken, Advocate)

ORDER(oral)
Shri Justice V.S.Aggarwal

The applicant was employed as Beldar in the category of hand receipt/daily wages on 1.8.1987. By virtue of the present application he seeks regularisation of his services on the post of Sewerman and respondents should pay arrears of salary due to him for the work done by him as Sewerman from 1.8.1987. It is asserted by the applicant that right from the first day when he was appointed he has been discharging the duties of Sewerman, which is a post carrying a higher scale of pay.

2. In the reply filed it is not disputed that the applicant had been appointed as Beldar and he was granted temporary status. It is denied that the applicant was appointed as Sewerman or that he has been discharging the duties of Sewerman.

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3. We have heard the learned counsel for parties.

4. From the pleadings itself, it is clear that the applicant was appointed as Beldar and thereafter he was granted temporary status. It is not in dispute that there are statutory Rules for the post of Sewerman. The applicant has not been appointed as Sewerman in accordance with the Recruitment Rules. The issue involved herein is well settled that no person can be appointed dehor's the Recruitment Rules. Even if the applicant has been discharging the duties of Sewerman in which he has not been appointed he cannot claim as a right that he has to be regularised in the post of Sewerman ignoring the Recruitment Rules.

5. The contention of the learned counsel for the applicant in that event is that applicant should be paid difference of arrears of salary for the job that he has been discharging by working as Sewerman. Our attention has been drawn to certain letters on record which indicate that work of Sewerman was being taken from the applicant. There are several letters in this regard and one such letter dated 23.9.97 reads as under:

"With reference to the above letter, it is informed that Sh. Vijay Kumar, Beldar (Hand Receipt) was engaged on Aug. 1987 for cleaning of Sewer at Kasturba Niketan, Lajpat Nagar who is performing the duty of regular Sewerman. Details of which was sent to your office vide this office even No.368-Hindi dt. 5.4.95 (copy of which is enclosed and self-explanatory). On checking of register w.e.f. 1993-97 and it was found that Vijay Kumar, Beldar has given only the work of Sewerman."

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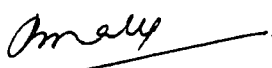
This clearly shows that by virtue of this letter applicant had been discharging the duties of Sewerman. Admittedly, the post of Sewerman is carrying a higher scale of pay. However, the applicant has not turned up early with this claim for years together. Most of the claims are time barred even as per the common law.


6. In the facts of the present case thus, we are disposing of the present application with the following:

(i) His claim for regularisation as Sewerman for the reasons given above is dismissed;

(ii) The applicant has been discharging the duties of Sewerman and therefore would be entitled to arrears of difference of pay between the post of Sewerman and Beldar only for a ^{maximum} period of three years before filing of the present application; and

(iii) Respondents shall verify and calculate the periods for which applicant had discharged the duties of Sewerman and pay him arrears preferably within six months from the date of receipt of a copy of this order.


(S.K. Malhotra)
Member(A)


(V.S. Aggarwal)
Chairman

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