

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

Dated: This the 22nd day of January 2020

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Original Application No. 330/01602 of 2016

Parashuram Ram, aged about 61 years, S/o Late Raj Kishore Ram, Retired C.P.Chaukidar, R/o Village Tandwa, P.O Mahammadabad Yusufpur, District Ghazipur 233001.

... Applicant

By Adv: Shri M.K. Singh/Shri M.K Yadav

V E R S U S

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi 211001.
2. The Chief Post Master General, U.P. Circle, Lucknow, 226001.
3. The Post Master General, Allahabad Region, Allahabad 211001.
4. The Director of Postal Services, office of Post Master General, Allahabad Region, Allahabad 211001.
5. The Superintendent of Post Offices, Ghazipur Division, Ghazipur 233001.

... Respondents

By Adv: Shri Murli Manohar

O R D E R

The applicant has filed this O.A under section 19 of Administrative Tribunals Act, 1985, seeking following reliefs:-

- "(i) Issue an order or direction commanding the respondents to make payment of pension and all other post retiral benefits to the applicant due taking his entire period of service i.e. 25.08.1983 to 31.07.2015 in to consideration with all other consequential benefits.
- (ii) Issue a further order or direction commanding the respondents to make payment of interest to the

applicant on delayed payment on post retiral benefits at the rate 18%.

- (iii) Issue any other and further order or direction/s which this Hon'ble Court may deem fit and proper in the facts and circumstances existing in the present case.
- (iv) Award the cost of the O.A. to the applicant".

2. The brief facts of the case are that the applicant was initially appointed on 25.08.1983 as Full Time Contingent Paid Chowkidar and he was extended temporary status w.e.f. 29.11.1989 and thereafter he was accorded the benefits of Group 'D' employees. It is stated that the appointment of the applicant was made strictly in accordance with the provisions of Rule 154 (a) of Manual of Appointment and Allowances of Officers of the Indian Posts and Telegraphs Department. The applicant has retired on 31.07.2015 after completing 32 years of service but he has been denied the pensionary benefits. It has been alleged that he is entitled for all retiral benefits as admissible to comparable staff in the regular group 'D' employee. He made a representation dated 22.08.2015 with a request to grant the monthly pension and other post retiral benefits, but no action has been taken by the respondents in this regard.

3. No counter affidavit has been filed despite several opportunities have been given to the respondents. By order of this Tribunal dated 04.07.2019, the Tribunal was of the view that Tribunal has no option but to proceed without the benefit of counter reply. Hence, right to file counter affidavit has already been closed.

4. I have heard Sri M.K. Yadav counsel for the applicant and Shri Murli Manohar counsel for the respondents and perused the record and gone through the pleadings available on record.

5. The applicant by placing reliance upon para 154(a) of the Manual of Appointment and Allowances of Officers of the Indian Posts and Telegraphs Department contended that he is entitled for all retiral benefits as may be admissible to comparable staff in the

regular group 'D' employee. He relied upon the following judgments in support of his arguments -

- "(i) O.A No. 917/04 – Chandi Lal Vs. U.O.I and Ors. decided on 2.9.2015 by CAT, Allahabad Bench.
- (ii) O.A. No. 1626/05 – Shyam Lal Shukla Vs. U.O.I and Ors. decided on 28.7.2009 by CAT, Allahabad Bench."

Rule 154 (a) of the Manual reads as under :-

"154(a) Selected categories of whole-time contingency paid staff, such as Sweepers, Bhisties, Chowkidars, Chobdars, Malis or Gardeners, Khalassis and such other categories as are expected to work side by side with regular employees or with employees in work-charged establishments, should, for the present, be brought on to regular establishments of which they form adjuncts and should be treated as " regular" employees. The other contingency staff who do not fulfil these conditions, e.g., Dhobis, Tailors, Syccs, Grass Cutters, etc., should continue on the existing basis and should be treated to be "Casual employees". Part-time employees of "regular" categories, as also employees of "Casual" categories who are not brought on to the regular establishment, will continue, as at present, to be paid from contingencies."

From the perusal of Rule 154 (a) of Manual it is manifestly clear that the Chowkidar, Sweepers, Malis, Khalassis who worked side by side with regular or with employees in Work Charge Establishment should be brought on regular Establishment and should be treated 'regular employees'. The Rule itself has used the work 'regular employee' without any reference to formal order of regularisation.

6. I have also gone through the judgments referred by the learned counsel for the applicant. In the case of Chandi Lal (supra), the applicant was working in the Department of Posts on work charge establishment w.e.f. 15.4.1982. He was granted temporary

status w.e.f. 29.11.1989 and thereafter, he was brought on the pay scale of Group 'D' employee and also accorded service benefits admissible to the Group 'D' employee. Though no formal order of the regularisation was issued in the said case but the Tribunal held the applicant entitled to pension treating him a Group 'D' regular employee. The Writ Petition No. 11297/2006 filed against the said order was dismissed by Hon'ble Allahabad High Court vide order dated 02.03.2007 and Hon'ble Supreme Court also upheld the order of Tribunal and High Court vide order dated 03.03.2008 passed in SLP (CC) No. 3248/2008.

7. In the case of Shyam Lal Shukla (supra), the applicant was initially appointed as full time CP Chowkidar and was granted temporary status w.e.f. 29.11.1989. No formal order of regularisation was ever issued. In this case, the applicant was deemed to be regularised, treated as 'regular employee' of the Department and declared entitled to all post retiral benefits as per relevant statutory rules in force. The Writ Petition No. 60272/2009 filed against the said order of Tribunal, was dismissed by Hon'ble Allahabad High Court vide order dated 23.12.2011 and Hon'ble Supreme Court also upheld the order of Tribunal and High Court vide order dated 06.08.2012 passed in SLP (CC) No. 12664/2012.

8. The facts and circumstances of above noted cases are almost similar to the case in hand. In the instant case, the applicant was appointed as C.P. Chowkidar on 25.08.1983 and he was extended temporary status w.e.f. 29.11.1989 and thereafter he was accorded the benefits of Group 'D' employees. The cases of Chandi Lal and Shyam Lal Shukla went up to Hon'ble Supreme Court and case of Shyam Lal Shukla was also affirmed by the Apex Court. It has been settled that such employees shall be deemed to have been regularised and consequently required to be treated as regular employees of the respondents' department and consequently they are entitled to all pensionary benefits.

9. Accordingly, the O.A. stands allowed. The respondents are directed to ensure payment of pension and other post retiral

benefits alongwith interest @9% per annum from the date it becomes due till the date of actual payment as expeditiously as possible preferably within a period of three months from the date of receipt of copy of this order. No order as to costs.

(RAKESH SAGAR JAIN)

MEMBER – J

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