

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. NO.125/2001

Thursday, this the 28th day of November, 2002

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)  
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Madan Lal  
S/o Shri Milkhi Ram,  
R/o Q.No. F-402, Sewa Nagar,  
New Delhi

(By Advocate : Shri S.C. Sharma) ... Applicant

Versus

1. Central Public Works Department,  
Through its Director General (Works),  
Nirman Bhawan, New Delhi-110 001
2. The Executive Engineer,  
Parliament Works Division-II, C.P.W.D.,  
Vittal Bhai Patel House,  
Rafi Marg, New Delhi

(By Advocate : Shri D.S. Mahendra) ... Respondents

O R D E R (Oral)

By S.A.T. Rizvi, Member (A) :

On the ground that this case is covered by the judgement and order dated 23.09.1998 of this Tribunal in OA No.440/1995 filed by similarly placed persons, the applicant prays for his regularisation in the post of Clerk/Enquiry Clerk in the light of the experience gained by him by working as Enquiry Clerk for the last 21 years. The respondents dispute the applicant's claim for regularisation and have filed a reply. Thereafter a rejoinder has been filed on behalf of the applicant.

2. We have heard the learned counsel on either side and have perused the material placed on record.

3. The applicant, in addition to placing reliance on the judgement of this Tribunal dated 23.09.1998, has also placed reliance, for the same purpose, on the judgement

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rendered by this Tribunal on 30.10.2000 in another case (OA No.917/1999 with OA No. 24/1999) (A-1). A copy of this order of the Tribunal has been placed on record. A perusal of the same clearly shows that the submission of the applicants in that case for regularisation of their services was negatived. However, at the same time, the Tribunal accepted the claim of the applicants for payment of salary by placing them in the pay scale of Enquiry Clerk for the period they discharged the duties of an Enquiry Clerk. A similar order has been passed by this Tribunal on 01.10.2001 in OA No.143/2001 with OA No.30/2001. In this latter order, the Tribunal went on to observe that there was no post of Enquiry Clerk available in the respondents' organisation against which the applicants services could be regularised, and that the only post available is that of the LDC which could be filled only through the SSC and in accordance with the relevant Recruitment Rules. Holding thus, the Tribunal negatived the plea of the applicants in this case also for regularisation as Clerk/Enquiry Clerk.

4. In the reply filed on their behalf, the respondents have clearly asserted that there is no post of Enquiry Clerk borne on the strength of the work charged establishment in the CPWD, and that the members of staff whose services were utilized for the purpose of discharging the duties of Enquiry Clerk have been paid by placing them in the pay scale of Clerk in the light of the direction issued by this Tribunal. They have also asserted that the applicant is a regular Beldar in the CPWD and should accordingly seek promotion in his own

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hierarchy in accordance with the relevant rules. We find substance in these assertions and having regard to the aforesaid judgements of this Tribunal, we hold that the applicant's plea for regularisation as Clerk/Enquiry Clerk is wholly untenable and deserves to be rejected.

5. Insofar as the applicant's <sup>& case for actually &</sup> working as Enquiry Clerk is concerned, the respondents appeared to be non-committal. We find ourselves unable to appreciate this attitude of the respondents. Along with his OA the applicant has filed several documents which go <sup>to</sup> to show that he has discharged the duties of an Enquiry Clerk for a long enough time. For instance, in his application dated 10.10.2000 (Annexure-F), the applicant has stated that he has been doing the work of an Enquiry Clerk from February 1979 onward. This application, we find, has been forwarded by the concerned Junior Engineer to the Assistant Engineer with the remark that the applicant had been working on the job of Enquiry Clerk till date in the V.B.P. House till. On this basis and taking into consideration the other documents placed on record, we are satisfied that there is a prima facie case for holding that the applicant has worked as Enquiry Clerk for a long enough time, and this being so, he deserves to be paid salary for the period he did the job of an Enquiry Clerk by being placed in the pay scale of a Clerk, on par with several others who had been paid similarly.

6. In the light of the foregoing, we allow this OA in part and direct the respondents to scrutinise their record thoroughly with the help of whatever documents have been

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made available by the applicant and to arrive at the total period during which the applicant is likely to have discharged the duties of an Enquiry Clerk even though posted formally as a Muster Roll worker or as a Beldar. Having worked out the total period as above, the respondents will proceed to make such payment to the applicant as is found due to him by placing him for the period in question in the pay scale of a Clerk. This exercise will be undertaken by the respondents forthwith and completed within a maximum period of four months from the date of receipt of a copy of this order. We direct accordingly.

No costs.

S. Raju  
(SHANKER RAJU)  
Member (J)

/pkr/

A. T. Rizvi  
(S.A.T. RIZVI)  
Member (A)