

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

(14)

DA 143/2001 with DA 30/2001 Date of decision: 1.10.2001

Hari Charan Singh
Jai Prakash & Ors. Applicant
..... Applicants
(By Advocate: Shri R.K.Kapoor)

versus

Director Genral of Works & Ors. Respondents

(By Advocates: Smt. Avnish Ahlawat, through proxy
counsel Shri Mohit Madan)
Shri R.V. Sinha, through proxy
counsel Shri R.N. Singh)

CORAM:

The Hon'ble Shri M.P. Singh, Member (A)

The Hon'ble Shri Shanker Raju, Member (J)

1. To be referred to the reporter or not? Yes

2. Whether it needs to be circulated to other
Benches of the Tribunal?

cmrsh
(M.P. Singh)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.143/2001 with OA No.30/2001

Ne4w Delhi, this 1st day of October, 2001

Hon'ble Shri M.P. Singh, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

OA No.143/2001

Hari Charan Singh
Vill. & PO Kair, New Delhi-110043 .. Applicant
(By Shri R.K.Kapoor, Advocate)

versus

1. Director Genral of Works
CPWD, Nirman Bhavan, New Delhi
2. Executive Engineer, PWD
Division XXVI(DS), Nirman Bhavan
New Delhi .. Respondents

(By Shri Mohit Madan, proxy for Mrs. Avnish
Ahlawat, Advocate)

OA No.30/2001

1. Jai Prakash
1470, DA Flats, Gulabi Bagh, Delhi
2. Iswar Singh
Vill. & PO Pochanpur, New Delhi
3. Ami Chand
F-1/117, Sunder Nagar, Delhi
4. Jawahar Lal
A-6, PWD Staff Qr. Sindhora Kalan, Delhi
5. Babu Ram
A-46/5, Gali No.7
Kaushik Enclave, Burari, Delhi
6. Damodar Singh
PWD-16, Staff Qr. Police Colony
Ashok Vihar, Delhi
7. Ramanuj Kumar Singh
H No.N-40, Khicharipur, Indira Camp, Delhi
8. Khushal Nath
PWD-4, Staff Qr. Nimri Colony
Ashok Vihar Phase IV, Delhi
9. Hukum Singh Negi
N-19/B-4, Dilshad Garden, Delhi
10. Jagan Nath
PWD-3, Staf Qr. Nimri Colony
Ashok Vihar Phase IV, Delhi .. Applicants

(By Shri R.K.Kapoor, Advocate)

versus

1. Director General of Works
CPWD, Nirman Bhavan, New Delhi
2. Supdt. Engineer, PWD Circle I
Under Flyover, ISBT
Kashmiri Gate, Delhi
3. Supdt. Engineer, Delhi Central
Circle IX, CPWD
5-7, Barakhamba Lane, New Delhi .. Respondents

(By Shri R.N.Singh, proxy for Shri R.V. Sinha, Advocate)

ORDER

Shri M.P. Singh

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The issues involved and the reliefs prayed for in both these OAs are identical and therefore, with the consent of the parties, we proceed to dispose of them through a common order.

2. Heard the learned counsel for the parties and perused the records. Applicants' challenge in these OAs is to the order dated 11.10.2000 whereby respondents have given clarification to the effect that order dated 9.9.99 issued in pursuance of Arbitration Award dated 31.1.88 is applicable only to such work-charged Beldars who were on roll of CPWD on 1.4.81 and thereafter whose services have already been utilised in the higher category are irregular. In OA No.30/2001, applicants have also challenged the order dated 13.7.2000.

3. Briefly stated, all the applicants claim that though they have been appointed as work-charged Beldars in the CPWD (except Shri Jagan Nath, applicant No.10 in OA No.30/2001, who joined service as Lab. Assistant) they have been working as Enquiry Clerks in various CPWD Enquiry Offices for the last several years but their services have not been regularised in terms of the aforementioned Arbitration Award. Applicants also claim that they are Matriculates. They have therefore filed this OA seeking directions to the respondents to quash and set aside the orders dated 11.12.2000 and 13.7.2000 and to regularise their services as Enquiry Clerks.



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4. On the other hand, it is the case of the respondents that vide order dated 16.12.1999 they have already issued clarification to the field units in regard to implementation of the arbitration award dated 31.1.88 on recategorisation/reclassification of the work charged establishment staff of the CPWD as modified by the Delhi High Court judgements in various writ petitions filed before it. In that order dated 16.12.1999, with reference to the question as to whether the workers engaged as Chowkidar and performing the duty of Enquiry Clerks in the service centres are required to be given the benefit of Arbitration Award, it has been clarified that "No. The benefit of Award is required to be passed on to the work charged Beldars performing the duty of Enquiry Clerks and who are matriculates". It has also been categorically held therein that work-charged Beldars will be entitled to get all the benefits as available to the comparable Group D categories; mere revision of their wages do not make them the workers of regular establishment. As regards payment of overtime wages to those work-charged Beldars who were engaged for noting down complaints in the centres, it may be stated that their duty hours be fixed and they generally remain on general duty. Since the work charged Beldars who were engaged by the service centres to note down the complaints of the allottees performed duty within their duty period, the question of payment of overtime wages to such workers does not arise.

5. The learned counsel for the respondents drew our attention to the order dated 6.12.2000 and contended that the pay of the applicant in OA No.143/2001 for performing the duty of Enquiry Clerk w.e.f. 11.3.93 has

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already been fixed and that he is being paid salary and allowances in terms of the Arbitration Award dated 31.1.88. Similarly, he has also drawn our attention to the orders passed on various dates in respect of the applicants in OA No.30/2001 to the above effect. In these orders, the following terms and conditions have also been mentioned:

1. The worker will remain as work-charged Beldar, but he is supposed to perform all the duties of an Enquiry Clerk. He will be entitled to get all the benefits as available to the comparable Group D categories;
2. Mere revision of his wages/pay do not make him the worker of regular establishment; and
3. Since the worker is engaged to note down the complaints of the allottees and performing duty within his duty period, the question of payment of over-time wages does not arise.
6. The learned counsel for the respondents further submitted that there is no sanctioned post of Inquiry Clerks as such in the CPWD organisation but only there is the post of LDC which is required to be filled up in accordance with R/Rules through Staff Selection Commission. He has also placed reliance on the judgements of this Tribunal dated 1.3.2000, 30.10.2000 and 11.12.2000 by which OA Nos.431/1996, 917/1999 and 1833/1997, touching upon similar issues, were dismissed and contended that the present OAs are covered in all fours by the aforementioned judgements. In view of this position, nothing survives in the present OAs and hence they may be dismissed.
7. In so far as applicants' (OA No.30/2001) challenge to the order dated 13.7.2000, the learned counsel for the respondents would submit that the same is not tenable for the reason that this is only clarificatory

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in nature regarding implementation of the Arbitratory Award issued with the approval of Director General Works, CPWD to the following effect:

"You are requested to enjoin upon all the officer under your region not to assign the job of a higher category to a worker in future, in any circumstances whatsoever. Any such instance if comes to the notice of this Directorate in future will be viewed seriously and suitable disciplinary action against all such defaulting officer will be taken for causing financial loss to the Government by wilful disobedience of Government orders".

8. On a careful perusal of the records placed before us and having regard to the aforementioned judgements of this Tribunal in para 6 above, we do not find that the orders impugned by the applicants suffer from any infirmity. We also find that the pay of the applicants for performing the duty of Enquiry Clerk has already been fixed and they have been paid arrears of pay and allowances pursuance to the Arbitration Award cited above. Again, there is no post of Enquiry Clerk available with the respondents against which applicants' services can be regularised. There is only the post of LDC available with the respondents which has to be filled through SSC as per the R/Rules framed for the post.

9. For the foregoing reasons, we find the present OAS devoid of merit and the same are accordingly dismissed. There shall be no order as to costs.

S. Raju

(Shanker Raju)
Member(J)

M.P. Singh

Member(A)

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