

Central Administrative Tribunal
Principal Bench

O.A.No.1888/2001

18

Hon'ble Shri Govindan S. Tampi, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 7th day of October, 2002

Shri Onkar Nath
s/o Shri Govind Ram
Record Lifter
working as a Typist
under Senior Signal Telecommunication
Engineer (Construction)
Saharanpur. ... Applicant

(By Advocate: Sh. B.S.Mainee)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Chief Administrative Officer (Construction)
Northern Railway
Kashmiri Gate
Delhi.
3. The Deputy Chief Signal & Telecommunication
Engineer (Construction), RRI
Northern Railway
New Delhi.
4. The Sectional Engineer (Signal/Works)
Northern Railway
Saharanpur. ... Respondents


(By Advocate: Sh. R.P.Aggarwal)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

Through this OA, applicant has prayed the following reliefs:

- "8.1 That this Hon'ble Tribunal may graciously be pleased to allow his application and direct the respondents:
- (a) to pay him the salary of a Typist for the period he had been working as a Typist w.e.f. 1992 upto which the dues/difference of the pay has already been paid;

-2- 

(b) to direct the respondents to regularise him as a Typist because he had already worked for more than 15 years on adhoc basis as a Typist."

2. Applicant was regularised as Khalasi w.e.f. 4.8.1993 and promoted as Helper Khalasi from 19.4.2000. As the applicant was a qualified Stenographer, he was trade tested in the trade test of Typist and having qualified the same, he was utilised as Typist from 1986 to 1992 for which he has been paid accordingly.

3. The grievance of the applicant is that although he was utilised as Typist till 2001 but he has not been paid salary for the post. Having discharged higher responsibility, he is entitled for the salary of a regular Typist in the grade of Rs.3050-4500 and has also entitled for being regularised as Typist.

4. On the other hand, respondents' counsel denied the contentions and stated that by referring to the decision of the High Court of Delhi in CWP No.4121/97 Union of India Vs. Lekh Raj and Others, decided on 18.5.2002 with a directions to frame a Scheme of regularisation or regularisation by the Tribunal, cannot be countenanced. Moreover, it is stated that the applicant is required to be screened in Group 'D' and cannot be straight away, de-hors the rules, regularised in Group 'C' employee as Typist. Further, it is stated that regularisation is to be done by the respective Division on seniority/selection basis and not by Construction Division. Applicant was regularised by the concerned Division, if found fit, in

his turn on seniority. However, it is not disputed that he was utilised as Typist from 10.2.1986 to 13.4.1992 for this he has already been paid arrears. As he has been put back as as TS Record Lifter from 19.6.1992 and has performing the duties of TS Record Lifter and has never been utilised as Typist after that date, he is not entitled for pay and allowances as claimed for.

5. We have carefully considered the rival contentions of the parties and perused the material on record. In so far as the claim of the applicant for regularisation as Typist is concerned, this cannot be countenanced in view of the decision of the High Court in Lekh Raj supra. Moreover, applicant is to be screened in Group-D category for regularisation and Typist being a post under Group 'C', the same is to be filled up as per the relevant recruitment rules and a person cannot be straight away regularised de-hors the rules. Moreover, the regularisation is to be accorded by the respective Division, and not by the Construction Department.

6. However, the issue regarding claim of the applicant having been utilised as Typist from 1992 to 2001 is concerned, we find that the applicant has annexed several certificates issued to him by the officers of the Railways including the ASTE(Construction), Ghaziabad, Section Engineer, SIG(Works), Saharanpur, Deputy CSTE, RRT, NDLS and SE, Signal (Works), SRE. These certificates have not been found to be either manipulated or fabricated by the

4-2

applicant. Though the respondents have stated that these are not authorities to issue certificates to the applicant, and resisted the claim on that basis.

7. In our considered view, as it is settled principle of law that if an employee is asked to perform and shoulder the higher responsibility of post and perform^{the} the duties attached to it, he is entitled to be paid difference of salary and the emoluments attached with the post. As the claim of the applicant has not been meticulously gone into by the respondents having regard to the documents annexed, ends of justice would be met, if the present OA is partly allowed, rejecting his claim for regularisation as Typist, with the directions to the respondents to reconsider the claim of the applicant for accord of salary, i.e., difference of the salary of the post of Typist w.e.f. 1992 to 2001, in the light of the certificates issued and annexed with this OA, by passing a detailed and speaking order within two months from the date of receipt of a copy of this order. ~~No costs.~~ We order accordingly. No costs.

S. Raju
(Shanker Raju)
Member(J)

(Govindan S. Tampi)
Member(A)

/rao/