

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1894/2001

New Delhi, this the 30th day of January, 2002

Hon'ble Mrs. Lakshmi Swaminathan, V.C. (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

1. All India CPWD (MRM) Karamcharri Sangathan
through its President,
34-D, DIZ Area, Sector 4,
Raja Bazarr, New Delhi
2. Rohtash
S/o Shri Dasi Ram,
C/o All India Central P.W.D. (MRM)
Karaamchari Sangathan,
34-D, DIZ Area, Sector-4,
Raja Bazar, New Delhi-110001

Applicants

(By Advocate : Shri Naresh Kaushik Roy)

Versus

1. D.G. of Works CPWD,
Nirman Bhawan,
New Delhi
2. The Superintending Engineer,
Coordination Circle (Civil),
CPWD, Room No. B-108,
1st Floor, I.P. Bhavan,
New Delhi
3. The Executive Engineer,
B Division, CPWD,
IP Bhavan, New Delhi

Respondents

(By Advocate : Shri M.M. Sudan)

O R D E R (ORAL)

HON'BLE MRS. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J) :

This application has been filed by two applicants, but the claims relate mainly to the regularisation of the service of applicant No.2 as Sewerman from the date of his eligibility and also payment to him of wages as Sewerman with all consequential benefits including arrears of "salary" due to him w.e.f. 30.1.1986 in the post of Sewerman.

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2. The brief relevant facts of the case are that the applicant was initially appointed as Beldar w.e.f. 3.1.1986. According to Shri Roy, learned counsel for applicants, although ~~the~~^{he} applicant No.2 was appointed as Beldar, he has been working as Sewerman. The respondents vide their letter dated 13.2.1996 granted the applicant temporary status w.e.f. 1.9.1993. Shri M.M. Sudan, learned senior counsel for respondents submits that the order dated 13.2.1996 has been passed by the respondents in terms of the Government of India, DOP&T's Scheme dated 10.9.1993.

3. The main contention of Shri N.K. Roy, learned counsel for the applicant is that the respondents have in fact termed the applicant's employment as a Beldar, but ^{are} actually taking the work of a Sewerman. He has relied on a letter dated 9.2.1993 issued by the Executive Engineer, B Division, CPWD, New Delhi, on the subject of regularisation of muster roll Beldar/Sewerman wherein, it has been, inter alia, stated that the applicant, a muster roll Beldar is working as Sewerman since 1986. The learned counsel has, therefore, contended that as the applicant has continued to work as a Sewerman since 1986 and not as a Beldar, he is entitled to higher wages in that post, which has been unfairly denied to him. He has also prayed that a direction may be issued to the respondents to regularise the services of the applicant in the post of Sewerman as he has been performing those duties for more than 16 years in terms of the CPWD Manual Volume-II on recruitment/regularisation of muster roll employees.

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The learned counsel has submitted that in terms of DOP&T's Scheme, the applicant should also be granted age relaxation, if necessary. He has also relied on certain documents annexed to the rejoinder wherein he has submitted that even in May 2001 and thereafter, the applicant has worked as a Sewerman and not as a Beldar for which he ought to be paid the required ^{site} wages.

4. Shri M.M. Sudan, learned senior counsel for the respondents has submitted that the applicant has not even made a representation or exhausted ^{the} departmental remedy before filing the application in the Tribunal. However, we note that this OA has been admitted on 14.1.2002 and in the light of the orders passed therein, we do not consider that the OA should be dismissed on this ground.

5. On the merits of the case, the respondents have submitted that although the applicant was working as muster roll employee, he had been given temporary status w.e.f. 1.9.1993 in terms of DOP&T's Scheme dated 10.9.1993. The learned senior counsel has submitted that the applicant will be considered for regularisation as per his seniority in terms of the same Scheme. He has pointed out that it is not the grievance of the applicant that anybody junior to him has been regularised ignoring his claim. He has, therefore, submitted that the applicant's case can be considered for regularisation in his turn as per the provisions of the Scheme.

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6. With regard to the claim of the applicant for payment for doing the work of a Sewerman instead of a Beldar, according to the respondents, he has only been working as muster roll Beldar and not as a Sewerman, for which he is also being paid. In the circumstances, the learned senior counsel has submitted that the OA may be dismissed.

7. We have carefully considered the pleadings and submissions made by the learned counsel for the parties.

8. We note from the letter dated 9.2.1993 issued by the Executive Engineer, B Division, CPWD, New Delhi, addressed to The Superintending Engineer, IP Bhavan, New Delhi, wherein it has been stated, inter alia, that the applicant, a muster roll Beldar, has been working as Sewerman since 1986 and the case was sent for necessary action, namely, regularisation of muster roll Beldar/Sewerman. It is further noticed that by the subsequent order dated 13.2.1996, the applicant has been granted temporary status as a Beldar w.e.f. 1.9.1993 in terms of DOP&T's OM dated 10.9.1993. This OA has been filed on 18.7.2001. It is relevant to note that after the order dated 13.2.1996 has been issued by the respondents, the applicant does not appear to have made any representation to the respondents, regarding his claim that he is actually working as a Sewerman and not as a Beldar. Taking into account the facts and circumstances of the case, we agree with the contention of Shri M.M. Sudan, learned senior counsel that the claim of the applicant for higher emoluments/wage of a

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regular working Sewerman from 1986 to March 1996 is barred by limitation. Even thereafter, it is relevant to note that the applicant has not made any representation to the respondents claiming higher emoluments/wages of a Sewerman.

9. However, the learned counsel for the applicant has drawn our attention to some annexures annexed to the rejoinder filed by the applicant on 23.11.2001. According to him, some of the documents show that the applicant has been utilised as a Sewerman by the respondents even in May 2001 and thereafter. This is a matter of record for the respondents to verify.

10. In the particular facts and circumstances of the case, the applicant has only been granted temporary status as a Beldar in terms of DOP&T's OM dated 10.9.1993, his claim for regularisation in the post of Sewerman, which is a higher post, cannot be granted. However, the respondents shall consider the case of the applicant for regularisation as a Beldar in terms of DOP&T's Scheme ^{is} in due course.


11. From certain documents annexed by the applicant to the rejoinder, it appears that the respondents have utilised the services of the applicant as Sewerman even as on 16.5.2001. According to the applicant, the same was the position even earlier. Taking into consideration the fact that this application has been filed on 18.7.2001, we direct the respondents to verify their records, along with the claim of the applicant that

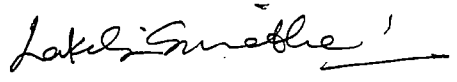
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he has worked as a Sewerman, even though he was engaged as a Beldar, from one year prior to the date of filing of the OA i.e. from ^{18.7}18.7.2000. In case the applicant has in fact discharged the duties as a Sewerman, the respondents shall pay the ^{18.7}~~due~~ of wages due to him as a Sewerman. In this connection, the applicant may, if he so desires, submit a self-contained and a detailed representation along with any supporting documents to show that he has actually performed the work of a Sewerman from 18.7.2000, within two weeks from the date of receipt of a copy of this order. Thereafter necessary action shall be taken by the respondents within three months from the date of receipt of the representation and they shall also arrange to pay the amount found due to the applicant within ^{this period. 18.7}~~three months~~.

12. The OA is disposed of in terms of paragraphs 10 and 11 above. No order as to costs.


(S.A.T. RIZVI)
MEMBER(A)


(MRS. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN(J)

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