

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.759/2001

Hon'ble Shri Shanker Raju, Member (J)

New Delhi, this the 8th day of August, 2001

Braham Pal  
S/o Sh. Shiv Charan  
r/o House No.5-127/B-354  
Dr. Ambedkar Basti  
West Block-II  
R.K.Puram  
Sector-I  
New Delhi - 110 022. .... Applicant

(By Advocate: Shri T.D.Yadav, proxy of Shri  
G.S.Lobana)

Vs.

1. Hon'ble Lt. Governor  
Govt. of N.C.T. of Delhi  
Raj Bhawan  
Delhi - 110 054.
2. The Director of Education  
Govt. of N.C.T. of Delhi  
Old Secretariate  
Delhi - 110 054.
3. Head of Office  
Govt. Co-Education Middle School  
Sector-2, Dwarka, Pappankalan  
New Delhi - 110 045. .... Respondents

(By Advocate: Shri Ashvini Bhardwaj, proxy of Shri  
Rajan Sharma)

O.R.O.F.R(oral)

By Shanker Raju, Member (J):

In the present OA, the claim of the applicant is that he has been regularly selected by a Board consisting of two Members and accordingly he has been put as Part-Time Safaiwala in the School. The applicant states that despite working from 7 A.M. to 1 P.M. like other staff, he has not been accorded the same salary which has been admissible to other staff. The applicant claims that his salary w.e.f. February, 2000 till April, 2001 has to be paid with interest.

2. Strongly rebutting the contentions of the applicant, the learned counsel for the respondents contended that the appointment of the applicant was dehors the rules and no approval of the respondents has been taken before selecting the applicant as a part-time Safaiwala. In this regard, I have been informed that necessary action has already been initiated against all the Members of the Board who have illegally selected despite non-availability of the vacancies with their organisation. As regards the interest, it is stated that as the appointment was against the rules, the respondents have no fault of their in not according the interest to the applicant but as the applicant had worked with them, they have already disbursed him the salary for the relevant period. It is also stated that the applicant has also acknowledged the same vide order dated 13.7.2001. Another receipt is also produced by the respondents showing that the applicant had received the payment of salary for the months of May and June, 2001 on 1.8.2001 also.

3. I have carefully considered the rival contentions of the parties. I find from the record that the applicant was selected as Part-time Safaiwala by a Board consisting of two Members and Superintendent. Whereas the factual position is that firstly there was no sanctioned post at the School where the applicant was appointed and secondly no approval of the respondents was taken which is mandatory according to the relevant recruitment rules. As such the appointment of the applicant as Part-time

W

8

← ] —

Safailwala is dehorsed the recruitment rules. As such he has no right for further continuance or regularisation. As regards the payment of the interest is concerned the respondents have already disbursed to the applicant the minimum wages which are admissible to a part-time employee in accordance with the laid down rules. The applicant has already received the same vide letter dated 1.8.2001. The applicant being an illegal appointee is not legally entitled to his claim regarding regular wages.

4. As far as the interest is concerned, the same is also not admissible to the applicant as his appointment was dehorsed the rules without any fault of the respondents and in the circumstances, the officers who have appointed the applicant have already been dealt suitably. As such the applicant has no legal claim over the interest.

5. The learned counsel for the respondents on my pointed query states that in case any post is available in the organisation and if the applicant applies for the same, he would be considered irrespective of his selection dehorsed the rules in the past. The OA is accordingly disposed of. No costs.

S. Raju

(SHANKER RAJU)  
MEMBER(J)

/RAO/