

Central Administrative Tribunal, Principal Bench

Original Application No. 2161 of 1999

New Delhi, this the 5th day of March 2001

Hon'ble Mr. Kuldip Singh, Member (J)

Shri Vimal Kumar s/o Shri Harish Chand  
R/o 397, Jadoda Dairy  
Burari Road, Delhi-9

(24)  
- Applicant

(By Advocate: Shri T.C. Aggarwal)

Versus

Union of India, through.

1. The Director General  
Doordarshan, Mandi House  
New Delhi-110001

2. The Secretary  
Dept. of Personnel & Training  
North Block, New Delhi-1

3. The Head of News,  
Doordarshan News  
C.P.C., Asiad Village  
New Delhi

- Respondents

(By Advocate: Shri R.V. Sinha with Shri R.N. Singh)

O R D E R (O&A)

By Hon'ble Mr. Kuldip Singh, Member (J)

Applicant in this case is aggrieved of an order dated 22.2.99 whereby his pay has been reduced in the pay scale of peon without any show-cause notice or by imposing any penalty. As such, it is stated that this order is ab-initio illegal and cannot be sustained as per the settled law.

2. Facts in brief are that the applicant was working as casual group "D" employee under the respondents and was given temporary status and his pay was fixed in the scale of Rs. 750-12-870-14-940 w.e.f. 1.9.93. Thereafter the applicant had been earning increments regularly. On the implementation of 5th

*Kul*

(25)

Pay Commission recommendations, his pay-scale had been revised to Rs.2550-55-2660-60-3200 w.e.f. 1.1.96 with next increment from 1.9.96, at Rs.2605/-. Applicant was given regular appointment on 17.3.97, retrospectively by the order dated 22.2.99 and by the same order, direction was given to reduce his pay from Rs.2605/- to Rs.2550/- w.e.f. 17.3.97. It is further stated that the pay of a person whether working on officiating basis or otherwise, on giving regular appointment, cannot be reduced under F.R.22 but the same is protected. In case of assumption of higher responsibilities, pay is also fixed at a higher stage. It is stated that the impugned order dated 22.2.99 whereby the pay of the applicant has been reduced, is wrong and the same is liable to be set aside as it amounts to reduction of pay without any show cause notice.

3.. Respondents are contesting the OA. They deny the allegation that their action is ab-initio illegal or discriminatory. They have relied upon the O.M. dated 21.1.98 of the DOPT. Respondents have admitted that applicant was initially appointed on casual basis and thereafter, temporary status was granted to him in compliance with the Tribunals order and that the applicant was being paid all the wages and increments as admissible from time to time. On applicant's regular appointment as peon, his pay was fixed in terms of the instructions contained in O.M. dated 29.1.98 of the DOPT in the pay scale of Rs.2550-55-2660-60-3200. It has also been pointed out that excess payment made to the applicant has already

kr

26

been recovered from his salary. It is stated that this O.A. is without any merit and deserves to be dismissed.

4. I have heard learned counsel for the parties and gone through the records.

5. Learned counsel for the applicant has referred to a judgement in O.A.1051/98 (K.Rajaiah & anr. vs. UOI & ors.) passed by the Hyderabad Bench of the Tribunal which is based on similar facts wherein the DOPT O.M. dated 29.1.98 was also an issue of consideration. In that case, the Hyderabad Bench had set aside the DOPT O.M. dated 29.1.98 and held that the casual labourers are eligible for protection of increments earned at the time of regularisation in group 'D' posts. Based on this judgement, the Principal Bench of the Tribunal had also decided one O.A.1031/2000 with the observations that "the applicants who have earned their increments because of their working as temporary status casual mazdoors, their career as temporary status casual mazdoors cannot be washed away when they were made regular mazdoors by refixing their pay at the minimum pay scale."

6. In view of the above two judgements, I am convinced that the present O.A. also deserves to be allowed. I, therefore, quash the impugned order and allow the O.A. with a direction that applicant shall continue to draw pay as already fixed in the pay scale of Rs.2550-3200. The amount which has already been

1a

27

recovered from the applicant, shall be refunded back to him. These directions should be implemented by respondents within a period of two months from the date of receipt of a copy of this order. No costs.

  
(Kuldip Singh)  
Member(J)

/dinesh/