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Central Administrative Tribunal
Principal Bench

C.P. No. 191 of 2000
M.A. No. 2373 of 1999
O.A. No. 1571 of 1998

New Delhi, dated this the 8th September, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shripal,
S/o Shri Shiv Raj Singh,
C/o Surveyor of Works-I,
1st Floor, MSO Building,
I.P. Estate,
New Delhi-110002. .. Applicant

(By Advocate: Shri Rishi Kesh)

Versus

1. Shri Prabhat Singh,
Chief Engineer,
PWD (Zone-III),
5th Floor, MSO Building,
New Delhi-110002.
2. Shri Bhagwan Das Duggal,
Director General of Works,
Central Public Works Dept.
101, Nirman Bhawan, New Delhi.
3. Shri K. Nayak,
Executive Engineer-III (P&A),
5th Floor, MSO Building,
PWD, NCTD,
New Delhi-110002.
4. Shri P.S. Bhatnagar,
Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110054. .. Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

MR. S.R. ADIGE, VC (A)

Heard both sides on CP 191/2000 M.A. No.
2373/99 and O.A. No. 1571/98.

2. Applicant filed O.A. No. 1571/98
seeking a direction to respondents to create a post

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of Research/Technical/Laboratory Assistant and to appoint him on regular basis.

3. Applicant's case was that although appointed as skilled Beldar on 16.10.74 on daily wage basis in Road Material Testing Laboratory PWD, Delhi Administration, he had all along doing the job of a Research/Lab. Assistant (Rs.425-700) but was neither being paid in that pay scale or regularised for want of a post. He had approached the Delhi High Court in this regard in Civil Revision Petition No. 1006/83 who had passed certain orders on 22.3.84. Against that he filed SLP No. 10775/84 in Hon'ble Supreme Court who in their order dated 13.7.86 (Annexure D) had recorded that prima facie they were of the view that applicant, though employed as a skilled Beldar on daily wage basis, was doing the work of a Laboratory Assistant and a suitable post should be created for him and he be appointed to that post. Subsequently by their order dated 20.8.86 (Annexure D) in that SLP the Hon'ble Supreme Court had noticed respondents counsel's averment that respondents were willing to appoint applicant as a Laboratory Assistant as soon as a Research Wing was created in the Establishment. The Hon'ble Supreme Court directed that till that was done applicant would continue to draw the same wages which he was then drawing and disposed of the SLP accordingly.

4. Thereupon applicant filed Writ Petition No. 59/87 in Supreme Court under Article 32 of the Constitution which was disposed of on 5.2.87 as withdrawn with liberty to applicant to move C.A.T.

5. Thereupon applicant filed O.A. No. 1480/87 which was heard and disposed of by order dated 17.3.93 (Annexure B) in which inter alia respondents were directed to consider the possibility of creating posts as directed by the Hon'ble Supreme Court.

6. Thereupon applicant filed the present O.A. No. 1571/98 on one of the dates of hearing i.e. 8.9.99, the attention of the Bench was drawn to Para 5 of Respondents' reply to the O.A. in which respondents had themselves stated that the matter relating to creation of a post as directed by C.A.T. in its order dated 17.3.99 was under consideration of Delhi Government. By its order dated 8.9.99 respondents were called upon to take a final decision in the matter within four weeks and apprise the Court of the decision taken thereafter.

7. As no final decision has been taken till date, applicant has filed C.P. No. 191/2000 alleging contumacious disobedience by respondents of the Tribunal's dated 8.9.99. Meanwhile respondents

have filed M.A. No. 2373/99 seeking recall of the orders dated 8.9.99 on the ground that the Tribunal is not competent to direct respondents to create a post. Meanwhile the O.A. itself is pending.

8. We have heard Shri Rishi Kesh for applicant and Shri Vijay Pandita for respondents.

9. During hearing Shri Vijay Pandita upon instruction of the Departmental Representative who was present in Court stated that the proposal for creation of the post of Laboratory Assistant was now in the final stages and all that was now required to be done was to place the proposal before the Cabinet for its approval and thereafter place the matter before L.G., Delhi for his approval.

10. We note with considerable anguish that although the Hon'ble Supreme Court had itself in its order dated 23.7.86 observed that a post of Laboratory should be created to absorb the applicant, and respondents' counsel had also submitted before the Hon'ble Supreme Court on 20.8.86 that respondents were willing to appoint applicant as Laboratory Assistant as soon as the post was created, the post has not been created till date. Respondents in their own reply dated 10.5.99 to this O.A. had stated that

the proposal for creating the post was under consideration, but even till date a final decision has not been taken.

11. M.A. No. 2373/99 for recall of the order dated 8.9.99 is rejected as the only direction contained therein was to respondents to take a final decision in the matter within a specified time period and apprise the Bench of the action so taken.

12. As according to respondents themselves the proposal for creation of the post of Laboratory Assistant is now in the final stage, and all that is left now is the approval of the Cabinet and of the L.G., Delhi, we dispose of the O.A. and the C.P. holding that if a final decision in the matter is not taken within two months from the date of receipt of this order, ^{and} the same is brought to our notice, we shall have no hesitation in compelling the attendance of all those concerned, to explain the delay.

13. C.P. No. 191/2000; M.A. No. 2373/99 and O.A. No. 1571/98 disposed of accordingly. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

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