

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CA No. 51/98

New Delhi, this 3rd day of June, 1999

Hon'ble Shri S.P. Biswas, Member(A)

Hanuman Singh
Vill Chachanpur, Sonakpur
Moradabad .. Applicant

(Mrs. Rani Chhabra, Advocate)

versus

Union of India, through

1. Secretary
Dept. of Telecommunication
Sanchar Bhavan, New Delhi
2. Chief General Manager
Telecom Projects, Northern Zone,
Eastern Court Complex, New Delhi
3. Divisional Engineer, Telecom Projects
Dept. of Telecom, Moradabad .. Respondents

(Shri Rajeev Bansal, Advocate)

ORDER

The applicant is challenging the action of the respondents in stopping payment of HRA/CCA to him with effect from May, 1997 without any prior notice. He claims that he has been working as casual Driver with the respondents since July, 1996 and he was paid HRA/CCA till April, 1997. He made a representation on 22.10.97 which was replied to informing him that it is not possible to pay HRA/CCA unless an order of the higher authority is received in that regard. He is therefore before this Tribunal seeking reliefs in terms of payment of HRA/CCA from May, 1997 onwards and also issuance of directions to the respondents to regularise him as Driver against one of the vacancies available with the respondents.

S.P. Biswas

2. Respondents in their reply have submitted that payment of HRA/CCA was stopped in compliance with DoPT's instructions dated 9.12.90 and 8.6.93 but applicant is being paid pay plus DA as applicable to the regular Driver as per the instructions cited. (19)

3. Heard the learned counsel for both parties. The applicant has not indicated the specific law/orders on the basis of which he could legally claim HRA/CCA while working as casual Driver. The case laws (Supreme Court cases) cited by the applicant do not lay down any law on payment of HRA/CCA to an official working on casual basis and that too against a Group "C" post.

4. In so far as applicant's request for regularisation is concerned, respondents have stated that though the vacancy of Driver was advertised and displayed on the notice board and many candidates applied for the same, the applicant did not apply in response to the said circular. They, however, contend that the applicant can be considered for regularisation subject to availability of vacancy and his fulfilling eligibility criteria. I do not find anything wrong in respondents' stand in respect of applicant's claim for regularisation.

5. I also find that DoPT's instructions cited were issued pursuant to the decision of the apex court in the case of Daily Rated Casual Labour/P&T Vs. UOI (1988) 1 SCC 122 wherein it was held that daily rated casual labourers in P&T Department doing work of regular nature are entitled to minimum pay in the pay scale applicable to regular workers of the relevant category plus DA but

(20)

without increments. In view of this settled position of law, as well as instructions of DoPT in its OM dated 6.12.90 and 8.6.93, I find no reason to interfere with the decision of the respondents in stopping payment of HRA/CCA when they realised their mistake.

6. I find that correcting such mistakes finds support from the spirit of the law laid down by apex court in the case of S.Nagaraj Vs. State of Karnataka 1994 SCC (L&S) 320. In so far as applicant's request for regularisation is concerned, it has to take place pursuant to a scheme, order, availability of regular vacancy and applicant fulfilling eligibility conditions.

7. In view of the details aforesaid, I do not find any merit in the OA and it is accordingly dismissed. No costs.


(S.P. Biswas)
Member(A)

/gtv/