

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2007 of 2000

New Delhi, this the 13th day of July, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

HON'BLE MR. M.P. SINGH, MEMBER (ADMN.)

1. Om Prakash
S/o Shri Balbir Singh
Working as Enquiry Clerk
In President's Estate Division,
Electric Sub Division-II,
New Delhi.

2. Brij Pal
S/o Shri Chiranjee Lal
Working as Store Keeper/
Enquiry Clerk in
President's Estate,
Sub Division II AC workshop,
Rastrapati Bhawan,
New Delhi.

-APPLICANTS

(By Advocate: Shri S.M. Garg)

Versus

1. Central Public Works Department,
Thr' its Director General (Works),
Nirman Bhawan, New Delhi.

2. The Executive Engineer,
President Estate, Electric Division,
CPWD, Rastrapati Bhawan,
New Delhi.

-RESPONDENTS

(By Advocate: Shri Anil Singh, proxy for
Mrs. P.K. Singh)

O R D E R

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

This is a joint application filed by two applicants who are aggrieved of the action of the respondents in not granting status and salary of the post of Enquiry Clerk/Clerk though the applicants are alleged to have been discharging the duties from 1985 and 1980 respectively so they are seeking regularisation against the post of clerks. The applicants also allege that CPWD has adopted a practice that the appointed persons as Beldars/Chowkidars/Khalasis are put to work as

k

Clerks/Sote-Keepers etc. and thus they are being paid at a lower rate meant for the purpose of lower posts whereas they are getting the work of a higher posts performed by them so it is prayed that the respondents be directed to regularise the services of the applicants as Enquiry Clerks/Clerks/Store-Keeper with all consequential benefits and respondents be further directed to pay the salary of Enquiry Clerks to the applicants.

2. The respondents are contesting the OA. Their main plea is that the applicants cannot be regularised de hors the rules since for the purpose of appointment of clerks there are Recruitment Rules and as per the Recruitment Rules, these persons who have been engaged as Beldar/Khalasis/Chowkidars etc., cannot be regularised.

3. I have heard the learned counsel for the parties and gone through the records of the case.

4. The learned counsel appearing for the applicant has referred to various judgments one of such judgments is in OA 917/99 in which I was also one of the party to the judgement. Besides this, the counsel for the applicant has also referred to another judgment given in OA 440/95 - Ashok Kumar Misra Vs. CPWD and Others given by another Division Bench of this Tribunal on 28.9.98. In the said judgment also the OA was allowed with a direction to the respondents to pay salary and other allowances payable to Enquiry Clerks for the period

h

they have shouldered the responsibilities of the higher posts but as far regularisation is concerned, they were directed to be considered only. (3)

5. However, in reply the respondents submitted that in the case of C.M. Chandersekharan and another Vs. CPWD (OA 461/96) and others the Tribunal had held that the appointment to the post of Clerks/Enquiry Clerks can be done only in accordance with the Recruitment Rules and even if the individual has been working on the post of Enquiry Clerk he is not entitled for regularisation in the said post.

6. I have also considered this aspect and contention of the rival parties and perused the record.

7. As far the case of regularisation of the applicants to the post of Clerks and Store-keeper etc. is concerned, I may mention that in OA 917/99 this very Tribunal has also held that the case of the applicants for regularisation cannot be considered de hors the rules.

8. However, as regards the claim for payment of salary on the post of Enquiry Clerks is concerned, the court has relied upon a Notification dated 9.9.1999 issued by the department itself wherein the similar persons who have worked at higher posts were allowed the salary so the OA was allowed with directions to the respondents that they shall pay the salary to the applicants on the post of Enquiry Clerks in accordance with the notification dated 9.9.1999 so the case in hand

Ar

is also similar and Shri S.M. Garg appearing for the applicants has very fairly submitted that the applicant are at least entitled for the pay and salary for the period for which they have shouldered higher responsibilities of the higher post.

9. So considering the submission made by the learned counsel for the applicant, I allow the OA partly and direct the respondents to consider the claim of the applicant with regard to pay and salary in accordance with the Notification issued by the department dated 9.9.1999, Annexure A-6 annexed along with the OA. This may be done within a period of 3 months from the date of receipt of a copy of this order. As regards the claim of regularisation is concerned, to that extent OA is rejected. No costs.

M.P.Singh
(M.P.SINGH)
MEMBER (A)

Kuldeep Singh
(KULDIP SINGH)
MEMBER (JUDL)

/Rakesh