

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-2585/90

Date of decision: 19.12.1991

Shri Suresh Kumar Applicant

Versus

Union of India through Respondents
Controller of Accounts,
P.A.O. Office,
Ministry of I & B.

For the Applicant Shri T.C. Aggarwal, Counsel

For the Respondents Shri M.L. Verma, Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, who is working as a Peon in the office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to regularise him with effect from 2.12.1982 with pay of the post of Peon (difference) and benefits of bonuses, etc.

2. This is the fourth round of litigation before the

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Tribunal by the applicant. He had filed DA-383 of 1988 in which one of the prayers made by him was that the respondents be directed to regularise his services and to pay him on the basis of pay-scale admissible to other Peons in the Department with benefit of liveries, bonus, etc., so admissible to regular employees throughout from the date of his initial appointment. By judgement dated 29.9.1989, the Tribunal disposed of the application with the following orders:-

"We, therefore, allow this Application with the directions that the respondent will consider the case of the applicant in the light of Government orders passed from time to time in the matter of regularisation of the services of the employees. We also direct the respondent to consider the matter and pass appropriate orders within a period of two months from the date of receipt of this order."

2. The applicant filed RA-161/89 against the aforesaid judgement on the ground that the relief claimed by him has not been clearly worded in the operative part of the judgement and he requested that clear directions be issued to the respondents in all matters.

3. By judgement dated 25.1.1990, the Tribunal rejected the R.A. filed by him. He had also filed CCP-145 of 1990 which was also disposed of by order dated 11.9.1990. The Tribunal noted that the respondents had passed an order on 23.2.1990 whereby the applicant had been appointed as Peon-cum-Chowkidar (Group 'D') w.e.f. 14.2.1990 on a

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temporary capacity. In view of this, it was held that the respondents have substantially complied with the directions given in the judgement. He was, however, given the liberty to file a fresh O.A. if he still felt aggrieved.

4. That is how the present application has been filed. The sole question arising for consideration in the present application is whether the services rendered by him from 1982 should be reckoned for determining his service benefits. In our perception, regularisation should be in accordance with the rules and not de hors the rules. The rules prescribe appointment on temporary capacity initially, with a stipulated period of probation. After successful completion of probation, he has to be considered for confirmation in a Group 'D' post. It is at that stage that the question whether he would be entitled to reckon his seniority from the date of his initial appointment in 1982, might arise and not at this stage. We leave that question open and hold that the applicant has rushed to the Tribunal again prematurely. In a case of this kind, we do not consider it fair and just to direct the respondents to pay ~~1/2~~ wages to him. The question whether or not he would be entitled to benefits of bonus, should be left to be regulated by the relevant rules. We

refrain from issuing any directions in this regard.

The application is disposed of accordingly.

5. There will be no order as to costs.

B.N. Dhumdiyal
(B.N. Dhumdiyal) 19/12/81

Administrative Member

P.K. Kartha
(P.K. Kartha) 19/12/81
Vice-Chairman (Judl.)