

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 304/91
T.A. No.

199

DATE OF DECISION 11.12.91

<u>Shri Virender Singh & Ors.</u>	<u>Petitioner</u> Applicant
<u>Shri Sant Lal</u>	Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India & Others</u>	Respondent
<u>Shri M.K. Sharma</u>	Advocate for the Respondent(s)

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

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? / No
4. Whether it needs to be circulated to other Benches of the Tribunal ? / No

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

The five applicants before us claim that they are working as Malis in the Horticulture Division II, P.W.D., Delhi Administration. According to them, they were employed as Horticulture Supervisors on Muster Roll / daily wage basis under the Horticulture Development Division-II P.W.D., Delhi Administration, New Delhi, during the periods mentioned below under the orders of the competent authority:-

1. Shri Virender Singh : 67 days in 1984 & 273 days in 1985
2. Shri Manbir Malik : - - - 238 days in 1985

3. Shri Raj Kumar : 10 days in 1984 & 277 days in 1985
4. Shri Arvind Kumar : 250 days in 1984 & 289 days in 1985
5. Shri Mool Chand : - - - 229 days in 1985.

2. The applicants 1 to 4 possess the academic qualification of B.Sc. in Agriculture while the applicant No.5 possesses the degree of B.Sc. in Botany. The applicants were paid their wages at the rate of Rs.14.65 per day.

3. The applicants were posted as Muster Roll Mali on daily-wage basis in Sub-Division 4 under Horticulture Development Division-II, P.W.D. Delhi Administration, New Delhi w.e.f. 1.1.1986. They were, however, regularised as Mali w.e.f. 7.12.1988.

4. In Surinder Singh Vs. Engineer-in-Chief, C.P.W.D., 1986 (1) A.T.R. 76, the Supreme Court directed that the petitioners and all other daily-rated employees should be paid the same salary and allowances as are paid to the regular and permanent employees with effect from the date they were respectively employed.

5. The applicants have stated that though they were employed by the competent authority as Horticulture Supervisors on daily-wage basis and had been doing the same work of regular and permanent Horticulture Supervisors during 1984 and 1985 for the periods mentioned above, they have been paid salary at the rates prescribed for regular Mali in the lower grade instead of the salary and allowances as admissible to the

regular and permanent Horticulture Supervisors. The pay-scale of regular Mali and regular Horticulture Supervisor (Chowdhary) during 1984 and 1985 were as under:-

- 1) Mali (Group 'D') : 196-3-220-EB-3-232
- 2) Horticulture Supervisor (Chowdhary) : 260-6-190-EB-6-326-8-EB-8-390-10-400.

6. The respondents have contested the above claims in their counter-affidavit. They have stated that the following posts exist in their Department:-

S.No.	Category of	Pre-revised scale	Revised scale
1.	Mali	Rs. 196-3-220-EB-3-232	750-12-670-EB-14-940
2.	Sr. Mali	Rs. 210-4-226-4-250-5-290	850-15-1010-20-1150
3.	Flooral Decorator	Rs. 260-6-326-8-350	950-20-1150-25-1400
4.	Chowdhary	Rs. 260-6-290-6-326-8-366-8-390	950-20-11-50-25-1500
5.	Head	Rs. 330-8-370-10-1400-10-480.	1200-30-1440-30-1800
6.	Bullack-man	Rs. 196-3-220-EB-3-232	- - -

7. According to the respondents, the applicants worked as muster roll employees during the years 1984-85. The respective periods and the posts during these periods for the applicants are shown in the list given below:-

S.No.	Name	1984			1985		
		Mali	Mate/ Supervisor		Mali	Mate/ Supervisor	
1.	Shri Virender Singh	62 days	5 days		138 days	135 days	
2.	Shri Manbir Singh	-	-		68 days	146 days	
3.	Shri Raj Kumar	-	9 days		-	251 days	
4.	Shri Arvind Kumar	167 days	83 days		77 days	212 days	
5.	Shri Mool Chand	-	-		27 days	202 days	

8. The respondents have stated that they have been wrongly designating the applicants as Supervisors/Mates/Chowdhary, etc. in the official records, while the actual work they were assigned was that of Malis only. They were inadvertently designated as Horticultural Supervisors/Mates which posts were non-existent. They were paid wages even higher than that of Malis though they were working as Malis only. The duties assigned to them were in no way comparable to that of Chowdhary for which, according to the rules, no direct recruitment can be made and the post is filled only by promotion. The applicants were also not asked to perform the duties and responsibilities attached to the post of Chowdhary on any similar post.

9. We have gone through the records of the case carefully and have considered the rival contentions. The applicants are not seeking regular appointment to the post of Horticulture Supervisor (Chowdhary). The question of their fulfilling the requirements of the Recruitment Rules does not, therefore, arise. They have produced documentary evidence to substantiate their claim that for certain periods in 1984 and 1985, they were asked to perform duties of Horticulture Supervisor (Chowdhary) and they are claiming equal pay for equal work for that period. The plea of the respondents that being a new Division they were unaware of the relevant Recruitment Rules, is not convincing. The contention of the respondents

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that the application is barred by limitation, is also not tenable as the judgement of the Supreme Court in Surinder Singh's case gave fresh cause of action to them to claim equal pay for equal work. The representations submitted by them are stated to be still under consideration.

10. In view of the foregoing, we allow the application and dispose it of with the following orders and directions:-

(i) The applicants are entitled to the pay and allowances of the post of Chowdhary during the years 1984 and 1985 and for the periods during which they performed the duties of the said post.

(ii) The respondents are directed to pay the arrears of pay and allowances to them for the periods mentioned in para. 4.1 of the application together with simple interest at the rate of 10 per cent per annum till the amount is released to them.

(iii) The respondents shall comply with the above directions within a period of three months from the date of communication of this order.

(iv) There will be no order as to costs.

D. K. Chakravorty
(D. K. Chakravorty)
Administrative Member

S. K. Kartha
(S. K. Kartha)
Vice-Chairman (Jud.)
31/12/81