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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 15/2004

New Delhi, this the 24th day of February, 2005

**HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.A. SINGH, MEMBER (A)**

Jaspal s/o Sh. Chhota,
R/o Govt. Boys Sr. Sec. School Campus,
Begumpur, Malviya Nagar,
New Delhi - 110 017.

...Applicant

(By Advocate: Shri U. Srivastava)

-versus-

1. Govt. of NCT Delhi through
Secretary Education,
Govt. of NCT Delhi,
Delhi Administration,
Old Secretariat, Delhi.
2. The Director of Education,
Directorate of Education,
Delhi Administration,
Old Secretariat,
Delhi.
3. The Deputy Director of Education,
Distt. South, Education Department,
Govt. of NCT Delhi, Delhi.
4. The Principal,
Govt. Boys Sr. Sec. School,
Begumpur, Malviya Nagar,
New Delhi - 110 017.

...Respondents

(By Advocate: Ms. Simran, proxy for Mrs. Avnish Ahlawat)

(18)

ORDER**Justice V.S. Aggarwal, Chairman:**

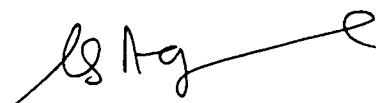
Applicant was engaged as a part time Sweeper and the initial order dated 1.4.1988 reads:

“Consequent upon the recommendation of Selection Committee, Shri Jaspal (D.O.B. 25/2/1967) s/o Shri Chota, R/o village DHINDALI, P.O. JHINJHANA, Distt. Muzaffar Nagar, U.P. is hereby appointed as Class IV part time Sweeper on purely temporary and on urgent & emergent basis for a period of 89 days only w.e.f. 01.04.1988 on consolidated salary of Rs. 487/- P.M. (fixed) as per the rules of the Department.

His services are likely to be terminated at any time without assigning any reasons whatsoever.”

2. By virtue of the present Original Application, he seeks a declaration that the action of the respondents by which the applicant has not been considered for regularization is invalid and that the applicant should be regularized as a regular Peon. His case should be considered for regularization and arrears should be paid to him.

3. Some of the other facts are that after the initial appointment, he has continued to work on the same terms. Applicant contends that respondents have been regularizing his juniors and similarly situated persons ignoring his claim. Some of his monthly salary even has not been paid while he has been performing his duties. It is in this backdrop that the aforesaid relief is being prayed.



4. In the reply filed, the Original Application has been contested. As per the respondents, the applicant was not engaged as per the instructions and the rules. The post was neither advertised nor the names were called for from the Employment Exchange. The Principal of the School, of his own, had appointed the applicant as part time Sweeper and had wrongly stated that it was on the recommendation of the Selection Committee. No such Selection Committee had ever been constituted. Thus, the applicant does not get any right to be so appointed or regularized. Plea has been raised that working of the applicant even was not reported to be satisfactory. Only those employees, who were sponsored by the Employment Exchange and interviewed by the Staff Selection Board and were between the age of 18-25, were considered to be eligible for regularization. The applicant did not fall in that category.

5. We have heard the parties' counsel and have seen the relevant records.

6. On behalf of the respondents, it was pointed that in the order of appointment, it has wrongly been mentioned that the applicant has been appointed on the recommendation of the Selection Committee.

7. So far as this particular contention is concerned, it is being put forward after 17 years of the order. It appears that during this period, no action in this regard had ever been taken. Thus, after such a long time, when no action against the Principal has been taken, the particular plea necessarily must be rejected.

A handwritten signature in black ink, appearing to read 'S. Ag' followed by a long horizontal stroke ending in a small loop.


8. As per the applicant, regularization of the part time employees was to be effected in terms of the Office Order, copy of which has been annexed. Para 3 of the same reads:

“3. Before appointment of these part-time employees to regular Group “D” posts the concerned appointing authorities should satisfy themselves that :-

- I. The part-time employee was within the prescribed age limit of 18-25 years (Relaxable for SC/ST as per general orders on the subject) on the date of his/her engagement as part-time employee.
- II. Documentary proof of the date of birth. The date of birth once entered in the service book shall not be liable to the change under any circumstances.
- III. Documentary proof of their belonging to SC/ST wherever applicable.
- IV. Part-time employee was paid out of contingent fund and was working against sanctioned part-time post and was engaged through Employment Exchange.”


9. It is on the strength of the same that respondents contended that the applicant was not working against a sanctioned part time post and his name was not sponsored by the Employment Exchange. Since these were the conditions that have been imposed and the same have not been challenged to be arbitrary, necessarily the claim of the applicant can be considered in the light of the said Office Order, which has even been relied upon by the applicant.


10. During the course of submissions, it was pointed by the applicant that his salary even for certain period has not been paid from October, 2004. Necessarily, when the applicant has served for this period, he should be paid as per the contract.



11. For these reasons, we dispose of the present Original Application directing:

- a) The salary of the applicant should be paid for the period he has worked and payment should be made within one month of the receipt of the order.
- b) The claim of the applicant in terms of the Office Order requires re-consideration and it has to be considered if the applicant can be regularized as per paragraph 3 of the Office Order, to which we have referred to above.
- c) The respondents, after such a long time, cannot take the plea that the name of the applicant was not recommended by the Selection Committee:
- d) This exercise may preferably be taken within four months from the date of receipt of the certified copy of this order.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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