

Central Administrative Tribunal, Principal Bench

O.A. 2489/2004

New Delhi this the 11th day of October, 2004

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

Braj Kumar Singh
S/o Late Shri Shiv Balak Singh
R/o Vill. & P.O. New Gwal Pahari,
Gurgaon, Haryana. ...Applicant

By Advocate: Shri S.C. Sharma.

Versus

1. Union of India
Through Secretary,
Ministry of Non-Conventional Energy Sources,
Block No.14, CGO Complex, Lodhi Road,
New Delhi.
2. The Advisor & Head
Solar Energy Centre,
Ministry of NCES,
Gwal Pahari, Gurgaon.
3. The Scientist 'C' & Head of Office,
Solar Energy Centre,
Ministry of NCES,
Gwal Pahari, Gurgaon. ...Respondents

ORDER (ORAL)

Hon'ble Mr. Justice M.A. Khan, Vice Chairman(J)

The applicant is assailing an order dated 4.10.2004 by which the respondents had transferred the applicant from the Library to the PVTF (Photo Voltak Test Facility) and seeks a direction that he should be allowed to continue to work in the Library/Information Division to perform work of Xerox Operator.

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2. Briefly the facts are that the applicant is employed with the respondents organization as daily wager with temporary status in Group 'D' cadre. According to him he was initially engaged as a casual worker in the office of the Solar Energy Centre on 6.11.1990 which was then located at CGO Complex, Lodhi Road, New Delhi till 17.5.1992. On 18.5.1992, the said office was shifted to Gwal Pahari, Gurgaon in Haryana and the applicant also shifted to that office along with other staff. Besides serving the Head of the Department (SEC) in all respect, the applicant had been assigned the work of Xerox Operator in the Library since 18.5.1992. He was also attending to the work of file movement, diarising of dak and distribution to the persons concerned. He is a matriculate and possess the requisite educational qualification for appointment as Xerox Operator. He was in the office of the Advisor and in the Head of the department, but continued to work as Xerox Operator and had acquired 12 years experience in operating Xerox machines. The applicant submitted an application for his appointment as Xerox Operator but his request was turned down on the ground that there was no post of Xerox Operator in the office and the applicant was a causal worker in the Group 'D'. The applicant has now been transferred to PVTF (Photo Voltak Test Facility) vice Shri Hukam Singh, Helper 'A'. One Shri Satish Kumar casual worker (temporary status) who was posted in administration has been transferred to Library to assist Shri Hira Lal in photocopying work. The applicant had been working as Xerox machine operator since 1992 and had gained sufficient experience to handle this work single-handedly to the satisfaction of his superior but he had been sought to be transferred to another office arbitrarily, mala fide and without any administrative exigency, hence this OA.

3. At the time of hearing, the learned counsel for the applicant has fairly and candidly conceded that the applicant is employed as casual worker with temporary status and that he has neither been appointed for operating Xerox machine or photocopier only nor was he posted as Xerox or photocopier operator. His argument is that the applicant right from 1992 when Solar Energy Centre was transferred from Delhi to Gurgaon he had been in addition to certain other duties like file movement, diarising of dak and distribution was operating photocopier and Xerox machines and thereby has gained experience in the operation of these machines. It is submitted that the applicant had been working as a photocopier for the entire office and to the entire satisfaction of his superiors. He contended that the applicant by an arbitrary and mala fide action of the respondents is now sought to be transferred from the Library/Information Division where the photocopier machines are located to PVTF, i.e., Photo Voltak Test Facility and is being replaced by Shri Hukum Singh, Helper 'A' who will be assisted by one casual worker with temporary status, Shri Satish Kumar, in operating the photocopier machines. It is argued that by working as Xerox/photocopier Operator for over 12 years, the applicant has a right to continue to be posted in the Library and continue to work as Xerox Operator. He has requested that the transfer order of the applicant from Library to PVTF may be quashed and the applicant be allowed to work as Xerox/photocopier Operator in the Library.

4. Admittedly the applicant is a casual worker with temporary status. He is working ~~as~~ a Group 'D' post. His terms of employment are contained in the Office Order dated 25.7.94 which is Annexure-B. Concededly there is no post of Xerox Operator in the office. Being causal worker with temporary status, he could not claim a vested legal

right in performing the duty as a photocopier machine Operator in the Library simply because he had been operating such machines for over 12 years during his posting in the administrative office of the Advisor or the Head of the Department. His apprehension that he would lose an opportunity of an appointment as a Xerox Operator is not well founded firstly because there is no post of Xerox Operator in the office and secondly the post, if created, will be filled in accordance with the Recruitment Rules and if the applicant is also eligible his case may also be considered by the appropriate authority.

5. The applicant as such does not hold any legal right to continue to work as Xerox/photocopier machine Operator in the Library. There is no material on record to suggest that his transfer from Library to PVTF which is part of the same office, is mala fide or arbitrary or has affected his legal right or it is in contravention or ~~one judicial~~ ^{one judicial} ~~prejudice~~ to the conditions of his service or terms of employment as casual worker with temporary status. The application, therefore, does not have any merit. No notice to the opposite side is warranted in this case.

6. As a result, the application is dismissed in limine.


(M.A. KHAN)
VICE CHAIRMAN (J)

Rakesh