

Central Administrative Tribunal  
Principal Bench: New Delhi

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OA No.1320/93

New Delhi this the 2nd Day of December, 1993.

The Hon'ble Mr. N.V. Krishnan, Vice-Chairman

The Hon'ble Mr. C.J. Roy, Member (J)

1. Anil Kumar Sharma  
son of Shri Shanker Lal Sharma  
Peon-cum-Chowkidar,  
Holiday Home of Delhi Administration,  
Hardwar.
2. Anand Singh Bhandari  
son of Shri Bakhtawar Singh,  
Peon-cum-chowkidar,  
Holiday Home of Delhi Administration,  
Mussoorie. ...Applicants

(By Advocate Shri Inderjit Sharma)

Versus

1. Lt. Governor of Delhi,  
through Chief Secretary,  
Delhi Administration,  
Delhi.
2. Labour Commissioner,  
Delhi Administration,  
15-Rajpur Road,  
Delhi. ...Respondents

(By Advocate: None)

O R D E R

(Hon'ble Mr. N.V. Krishnan)

The two applicants before us are peon-cum-chowkidar of the Delhi Administration in Holiday Home in Hardwar and Mussoorie. The first applicant, admittedly, was appointed w.e.f. 1.12.1982 (Annexure P-1) on a consolidated pay of Rs.200 as peon-cum-chowkidar in the Holiday Home, Hardwar. Likewise, the second applicant was appointed as peon-cum-chowkidar in the Holiday Home, Mussoorie on the consolidated pay of Rs.300 w.e.f. 20.5.1986 by the Annexure P-2 order.

2. The applicants have been making representations since 1986 to allow them the regular pay scale which is attached to the post of peon, i.e., Rs.750-940 but this has not been agreed to. It was stated in

the Annexure P-3 letter addressed to the first applicant by the Labour Commissioner, the second respondent, under whom the applicants are working, that the matter regarding granting of pay scale will be considered in the next year and this applicant was, therefore, advised not to approach the Executive Councillor in future. Similarly, the Administrative Reforms Department of the Delhi Administration by letter dated 2.8.1991 (Annexure P-4) wrote to the second respondent, inviting his attention to the case of the applicant and requested him to consider the case of the first applicant for regularisation of his appointment for granting him a regular time-scale in terms of the instructions contained in OM No.49014/-19/84-Estt(C) dated 26.10.1984 issued by the Government of India. In spite of that, no action has been taken.

3. The learned counsel for the applicants points out that the Finance Department of the Delhi Administration has pointed out to the Labour Commissioner by the letter dated 1.7.91 (Annexure P-5) that the representation of the first applicant for revision of pay scale should be considered and it is also mentioned therein that the salary has already become less than the minimum rate of wages fixed by the Labour Department under Minimum Wages Act. He was requested to intimate the action taken by him.

4. The respondents have filed a reply in which the only stand taken is that the applicants have been appointed only on a consolidated salary and

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as on the date of reply the applicants are getting Rs.958/- per month. It is stated that their case was considered and rejected on the ground that the post of peon-cum-chowkidar in the Holiday Home have been sanctioned only on a consolidated salary and the question of payment of regular pay does not arise.

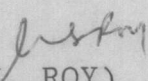
5. We have heard the learned counsel for the applicants.

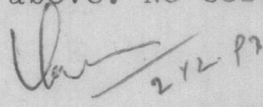
6. It is an entirely anachronistic situation that the applicants have been appointed to regular posts which have been in existence for nearly a decade in one case and 7-8 in other case but no pay scale is sanctioned. Normally, if such a post continues for such a long time, there is always a case for creating the post on regular basis on a regular pay scale. The payment of either daily wages or consolidated wages is totally out of tune with the manner in which such questions have been dealt with by the Government. In fact in Annexure P-4 of the Delhi Administration: Delhi (Administrative Reforms Department) Grievances Redressal & Anti Corruption Cell there is reference to the instructions of the Government of India dated 26.10.1984 on the subject which possibly contemplates grant of regular time scale in such cases. The reply of the respondents is totally silent on this instruction and what action they took in pursuance of the Annexure P-4 letter.

7. While, therefore, we do not want to decide the issue on merits at the present stage, we are satisfied that directions should be issued to the respondents - and we do so - to reconsider the representation made by the applicants for the grant of regular pay scale of a peon for the posts held by them, keeping in

consideration whether posts of chowkidar elsewhere in the Delhi Administration have been created on a regular pay scale and also taking into consideration the instructions dated 26.10.1984 referred to in Annexure P-4 of the Government of India as well as judgement of the Supreme Court in Piara Singh's case, (JT 1992(5) 179) referred to in para iv) of the rejoinder by the applicant and pass suitable orders in accordance with law under intimation to the applicants, within two months from the date of receipt of this order. We make it clear that in case the applicants are aggrieved, it is open to them to seek such relief, as may be advised.

8. The O.A. is disposed of, as above. No costs.

  
(C.J. ROY)  
MEMBER(J)

  
(N.V. KRISHNAN)  
VICE-CHAIRMAN

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