

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(6)

O.A. No. 2682/93.

NEW DELHI, THIS THE 19/5 DAY OF JULY, 1999.

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN
HON'BLE MR. N. SAHU, MEMBER (A)

Nageshwar Das
s/o late Sh. Foddar Das,
A-37, Ambay Garden, P.O. Samaypur,
Delhi-52.

....APPLICANT

(NONE FOR THE APPLICANT)

vs.

1. National Capital Territory of Delhi
The Government of Delhi,
Through - Secretary Land & Building,
Vikas Bhawan,
I.P.State, New Delhi-2.
2. The Chief Engineer, P.W.D. (Elec.) Zone-1
Curzon Road, New Delhi-1.
3. Asst./Junior Engineer (Elec.) P.W.D.
Hot Mix Plant-II
G.T. Karnal Road, Delhi-42.

...RESPONDENTS

(NONE FOR THE RESPONDENTS)

ORDER

JUSTICE K.M. AGARWAL:

By this O.A. applicant claims regularisation "as per his physical work and designation of Tar Boiler Operator or Operator" and payment of his salary accordingly with effect from the initial date of his appointment, i.e., 15.9.1981, in accordance with the decision of the Supreme court in SURINDER SINGH vs. ENGINEER IN CHIEF, C.P.W.D., AIR 1986 SC 584. He also wants seniority over Surendra Kumar, Kuber Singh, Lal Bahadur, Jai Kishan and Daulat.

2. The applicant has not apparently narrated the facts correctly. It appears that he was initially engaged on daily wages of Rs.9.25 per day as Muster Roll Khallasi on 15.9.1981. In February 1982, he was given the work of Tar Boiler Operator on daily wages of Rs.12.50 per day. In 1987, he appeared at the trade test for the post of Operator

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(E & M) and after declaration of the result on 5.2.1988 he was offered the post of Operator (E & M) by the Superintending Engineer (Coordination) by appointment letter dated 24.6.93 in the pay scale of Rs.950-1500. Pursuant to this letter of appointment he joined his duties on 26.6.93. As stated in the counter, on the basis of the decision of the Supreme Court in SURINDER SINGH's case (supra), his pay was fixed at Rs.1654/- per month till the date of his regular appointment by the said letter of appointment dated 24.6.93. However, it appears that on the basis of certain entries made in the attendance register showing him as Tar Boiler Operator, he started claiming the pay scale of Rs.1250/- in place of Rs.950/- from the very beginning of his service with the respondents as Muster Roll Khallasi on the basis of the principle of equal pay for equal work. As he failed in his representations, he has filed the present O.A. for the said reliefs. The application is resisted.

3. After perusing the application, counter reply, and the documents on record, we are of the view that this application is misconceived. The applicant was initially appointed on daily wages of Rs.9.25 per day as Muster Roll Khallasi, which was enhanced to Rs.12.25 per day with effect from February, 1982. On perusal of Office Memo dated 5.2.88 filed by the applicant himself as Annexure A-2, we find that the applicant was declared successful along with others at the trade test for the post of Operator and not for that of Tar Boiler Operator. Accordingly he was given regular appointment as Operator and he also joined the services as such on 26.6.93 as per his joining report, Annexure A-7, which he claimed to have been obtained by coercion. In matters of public appointment and in cases of the present nature, no one can imagine that an employee can be coerced to take the job of a post against his wishes. The applicant appears to have misinterpreted the principle of equal pay

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for equal work on the basis of the said decision of the Supreme Court in SURINDER SINGH's case (supra), which cannot be accepted. Apart from the work, the post of Tar Boiler Operator must require more experience and higher responsibilities and, therefore, only because the work done by the applicant and that required to be done by a Tar Boiler Operator appeared to be similar in nature, he cannot be allowed to claim the scale of Tar Boiler Operator on the basis of the principle of equal pay for equal work. Hence the application is misconceived and deserves to be dismissed.

4. Accordingly it is hereby dismissed, but without any order as to costs.


(K.M. AGARWAL)
CHAIRMAN


(N.SAHU)
MEMBER (A)