

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD

DATED : ALLD. ON THIS 12th DAY OF MARCH, 1998

CORAM : HON'BLE MR. S. DAYAL , MEMBER(A)
HON'BLE MR.DVRSG DATTATREYULU, MEMBER(J).

ORIGINAL APPLICATION NO. 1342 OF 1996

Ram Sajiwan Singh S/o
Late Shri Bhallu Patel R/o
Matadin Ka Pura, Phaphamau,
District - Allahabad.

.... Applicant

C / A : - Shri P. C. Mishra

Versus

1. Union of India through the Director
General of Ordnance Services(OS-20)
MGOS Branch, Army Headquarters,
D.H.Q. PC New Delhi-110 011.
2. Major General Army Ordnance Corps
Headquarters Central Command, Lucknow.
3. Commandant Ordnance Depot Fort,
Allahabad.

.... Respondents

C / R :- Shri S.C. Tripathi

O R D E R (RESERVED)

(By Hon'ble Mr.DVRSG Dattatreylu, Member(J)

This application is filed by the applicant under Section 19 of Central Administrative Tribunal's Act, 1985 praying for the direction to the respondents to absorb the applicant in regular service on the post of Printing Press Operator and to include in the Trade and to direct them to pay the regular salary in that cadre.

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2. The brief averments of the petition are to the effect that the applicant was initially appointed as Mazdoor on 24-04-1963 but his trade was changed or reclassified as Messenger with effect from 27th May, 1963. It is further stated that the respondent no.3 issued a Daily Order vide letter no.D.O.Part 1 No.735/Liby dated 30-06-85 inviting class III & IVth employees, who knew the job of composition to work as Machineman. The applicant had appeared in the said test and he was selected and posted as Printing Press Operator w.e.f.October, 1989. It is also stated that though he is working as the Printing Press Operator, he was not paid the salary of the Printing Press Operator nor he was regularised in the said post. He submitted a number of representations but no action was taken. Hence, this application.

3. In the counter reply on behalf of respondents, it is stated that the averments made in the petition are not correct. The applicant wanted himself vide his application dated 4th July, 1989 for the post of Machineman to be filled up as and when the vacancy arises. The headquarter, Central Command, Lucknow has not considered favourably sanctioning of the manpower. The applicant was allowed only to look after the machine but he was never allowed to operate the machine. The other contentions in the other paragraphs are denied parawise. It is also stated in para no.20 that no trade test was held for the post of Printing Press Operator. There is no availability of the Government sanction for Tradesman to operate the machine, one messenger and one Mazdoor was deployed to look after the machine. Therefore, there are no merits in the petition. The petition is liable to be dismissed.

4. Rejoinder is filed stating that the facts stated in the counter are not correct and, therefore, he has to be absorbed in the cadre of Printing Press Operator/Machineman.

5. Arguments of both the sides have been heard. The point for consideration is whether the petitioner is to be

regularised in the post of Printing Press Operator and direction to pay the regular salary in the said post. ⁽⁶⁾ It is to be seen that the petitioner is not able to produce any specific order regarding his appointment to the post of Printing Press Operator though his contention is that some other persons were already working as Printing Press Operator. There is nothing ~~by him to produce~~ to show that there is any hostile descrimination between himself and other staff with regard to the nature of the post assigned to each of them. Unless the present petitioner is specifically considered for the post of Printing Press Operator and there is specific order directing him to be absorbed in the said post, there cannot be any specific direction to treat him as the Printing Press Operator. As seen from the record, though it was considered once by the respondents to consider the messenger also to be absorbed in the said post of Printing Press Operator but it does not appear that he was specifically appointed to the said post. It is also seen from the contention arising by the Government that there is no sanctioned post of Printing Press Operator and that is the reason that the post could not be filled-up. Therefore, as on today there is no material to come to the conclusion that the respondents failed to take the petitioner to the post of Printing Press Operator. Therefore, there cannot be any direction at this stage. Further, when ones the sanctioned post is not there, there is no question of any regularisation or payment of the salary of that post. ⁽⁷⁾ Hence, ~~we~~ do not find any merit in the petition and the petition is dismissed.

6. But in view of the facts alleged by the applicant, it is observed ^{but not directed,} that the respondents, in case the sanctioned post comes, regarding Printing Press Operator, the present applicant has to be given necessary preference with regard to the said appointment. The applicant is at the liberty to press his claim when the said vacancy arises and if he has any further grievance, he can approach by way of a fresh petition on the facts to be established.

amw 9/3/91
MEMBER(J)

[Signature]
MEMBER(A)