

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

D.A. No. - 267 of 2001

Dated : This the 31st day of March, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Panna Lal s/o Sri Ram Kumar r/o Mohalla
Purana Bajaji Karua Ghat, P.O. Chundhi
Katra Distt. Mirzapur.

.....Applicant

By Advocate : S/Shri I.Ahmed, I.R.Singh

Versus

1. Superintendent of Post Offices,
Mirzapur Division, Mirzapur.
2. Union of India through its Secretary,
Post and Telegraph Department,
New Delhi.

.....Respondents.

By Advocate : None. S

ORDER

By Hon'ble Mrs. Meera Chhibber, J.M.

By this D.A. applicant has sought the following
relief(s):

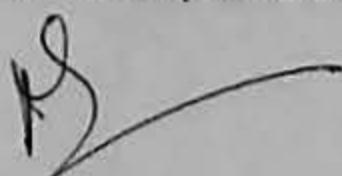
- w i) to quash the order dated 20.2.01
- ii) to direct the respondents to regularise his
services as Class IV with all service benefits
like his juniors have been given."

2. It is submitted by applicant that he was appointed

as class IV employee on 20.7.1977 against a substantive vacancy caused by the resignation of Rama Shankar(Annexure-2). Subsequently vide order dated 25.1.1983 his period was fixed as $7\frac{1}{2}$ hours a day(Annexure 2A). He has been working since 1977 for full time to the entire satisfaction of his superiors. Vide circular dated 12.4.1991 it was directed that all those casual employees who have been working prior to 29.11.1989, temporary status should be conferred on them yet he has not even been given temporary status even though persons junior to him like Izhar Alam who was appointed on 28.8.1988, Bali Nath, Das Ram and Arjun Mishra, who were appointed on 23.11.1981, 1.10.1983 and 9.5.1983 yet they are getting all the service benefits of a regular class IV employee. He has, thus, prayed that the relief prayed for may be granted.

3. Respondents have opposed this D.A. by stating that applicant was engaged only as a part time casual labour as per load of his work and has been provided full time status only in 2001 and since temporary status has not been provided to him, he is not entitled to leave, medical etc. as he has not completed one year from the date he is full time worker. As far as other persons are concerned they have submitted since these persons had been working for eight hours from before, therefore, they have been given temporary status. They have, thus, submitted that D.A. may be dismissed.

4. I have heard counsel for the applicant and perused the pleadings.. This is third round of litigation. It is not disputed by respondents that applicant has been working as C.P.Waterman cum farash from 1977. In fact in the appointment letter dated 20.7.1977 there is no mention that he is being engaged for 5 hours only. On the contrary it says he is being appointed as C.P.farash/waterman in place of Rama Shankar farrash who has resigned meaning thereby that it was a regular vacancy. In any case even if respondents stand is accepted that



he was paid only for five hours, the next letter on record clearly shows that his duty period was increased from five hours to $7\frac{1}{2}$ hours. This letter dated 25.1.1983 on page 15 was issued by Superintendent Post Offices, Mirzapur himself which means that requirement of full time was indeed felt by the authorities. As per the scheme of 91 casual labourers who were engaged for eight including $\frac{1}{2}$ hours lunch time would be paid at daily rates on the basis of the pay scale for a regular grade D official including D.A., H.R.A. and C.C.A. It was also clear that temporary status was to be conferred on those Casual Labour, who were in employment as on 29.11.1989 and had rendered continuous service of at least one year.

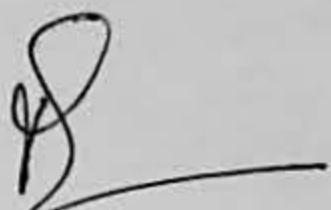
5. The letter dated 25.1.1983 has been annexed by the applicant, correctness of same has not been disputed by the respondents. Now as per scheme the working hours required for temporary status are eight hours, including $\frac{1}{2}$ hour lunch break. Since applicants duty hours were $7\frac{1}{2}$ hours u.e.f. 1983 as per this letter, therefore, $\frac{1}{2}$ hours lunch break is added his working hours come to be eight hours as per the letter on record, therefore, as per the scheme of 1991 he would be entitled to temporary status and consequential benefits. There is absolutely no dispute that he has been working satisfactorily since 1977 continuously. It is also not disputed that other persons, who were working for eight hours are getting the benefit of scheme, therefore, in these circumstances the stand taken by respondents that applicant was not working for eight hours a day cannot be accepted. At least from 1983 respondents had themselves increased his duty hours to $7\frac{1}{2}$ hours + $\frac{1}{2}$ hours lunch makes it eight hours so in my considered view applicant's case is fully covered under clause 2 of the 1991 scheme, therefore, not only he is entitled for grant of temporary status under the above said scheme but also becomes entitled for other benefits flowing therefrom. As far as regularisation is concerned naturally if those are 40 p.m.

48

naturally if there are 40 persons above him no direction can be given to regularise applicant alone by ignoring those who are above him.

6. In view of the above discussion respondents are directed to grant temporary status to the applicant under the 1991 scheme and all other benefits which flow therefrom including arrears. This shall be done within six weeks from the date of receipt of a copy of this order.

7. With above direction this D.A. is disposed off with no order as to costs.



Member (J)

Shukla/-