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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO. 599 OF 2005

ALLAHABAD THIS THE 29th DAY OF NOVEMBER, 2007

HON'BLE MR. P.K. CHATTERJI, MEMBER-A

1. Mangal, aged about 28 years, S/o Sri Meday Lal, R/o IIF, Karbala, Allahabad.
2. Shakil Ahmad, aged about 27 years, S/o Sri Abdul Rahim, R/o Chief Post Master General Office, Compound, 9 Hazratganj, Lucknow.

.....Applicants

(By Advocate Shri R. Verma)

V E R S U S

1. Union of India through the Secretary, Ministry of Communication (Department of Posts), South Block, New Delhi.
2. The Post Master General, Office of the Post Master General, Allahabad.

.....Respondents

(By Advocate: Sri S. Singh)

O R D E R

The applicant has approached this Tribunal with request for restoring the wages which was granted to him on 1.1.2002 at par with the regular Group 'D' officials in the scale of Rs. 2550-3200/-. The applicant is working as Sweeper in the office of the respondent no.2. Initially, he was engaged for six hours, however, it was enhanced to eight hours and necessary order was passed on 27.2.2002 (Annexure-1)

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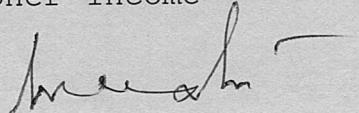
(9)

to the O.A.) enhancing working hours to eight hours in consultation with the Regional IFA. Accordingly, the applicant was considered to be full time casual labour and he was given wages at par with the regular Group 'D' officials without increment and certain other benefits, which are admissible only to departmental employees.

2. Suddenly, vide order of the respondents dated June, 2004, the applicant's wages was reduced and it was directed that it would be paid @ Rs. 81/- per day. The applicant, therefore, is at a loss why after enhancement of the wages in consultation with Regional IFA and without controverting the fact that his working hours remained eight hours per day, suddenly the respondents reduced the wages. He has, therefore, approached this Tribunal with the following relief{s}:-

"(i) to issue a writ, order or direction in the nature of mandamus directing the respondent no.2 to pay the petitioners their wages at daily rates on the basis of minimum of the pay scale of Rs. 2550-3200/-plus DA, HRA and CCA thereon as they were being paid earlier to May, 2004 with arrears thereof.
 (ii)
 (iii)"

3. The respondents have filed their reply to the O.A. It has been stated in para 6 of the Reply that the matter was reconsidered by the respondents in terms of the Government of India, Ministry of Labour O.M. F.No.K-27(1)/MWR/03/R dated 10.1.2003 (Annexure CA-3) and also in accordance with the order no. 27 dated 9.7.1993 of the office of Commissioner Income

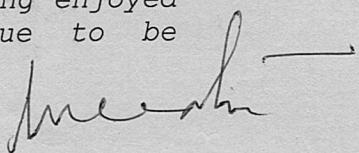


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Tax, Allahabad. However, in this letter the date of wages of casual labour was fixed @ Rs. 80.98/-.

4. The learned counsel for the applicant has taken the through both these circulars. Firstly, it has been stated by him that there was no direction in the circular of the Ministry of Finance dated 5.8.1999 for reducing the wages of casual labourers. The direction was only to the effect that until review of the establishment of casual labourers was completed, further engagement of casual labourers should not be resorted to. The learned counsel for the applicant has also stated that the circular issued by the Commissioner, Income Tax has no bearing on the Department of Posts and the Department of Posts is duty bound to pay due wages to casual labourers engaged by them in terms of the specific direction to this effect by the Hon'ble Supreme Court in 1988 SCC (L&S) 133, which is as follows:-

"8. In Dhirendra Chamoli Vs. State of U.P. this Court has taken almost a similar view with regard to the employees working in the Nehru Yuvak Kendras who were considered to be performing the same duties as class IV employees. We accordingly direct the Union of India and the other respondents to pay wages to the workmen who are employed as casual labourers belonging to the several categories of employees referred to above in the Posts and Telegraphs Department at the rates equivalent to the minimum pay in the pay scales of the regularly employed workers in the corresponding cadres but without any increments with effect from February 5, 1986 on which date the first of the above two petitions namely Writ petition no. 302 of 1986 was filed. The petitioners are entitled to corresponding dearness allowance and additional dearness allowances, if any, payable thereon. Whatever other benefits which are now being enjoyed by the casual labourers shall continue to be extended to them."



(11)

5. The learned counsel for the respondents, however, controverted the points made by Sri Verma that the circular of the Commissioner, Income Tax is not applicable to the Department of Posts. He says that this circular was issued by the Regional Labour Commissioner, therefore, it would apply to all the cases of engagement of casual labourers regardless of the department.

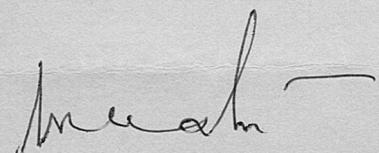
6. After hearing the arguments and on perusal of the records, I am not fully convinced with the grounds taken by the respondents for lowering the wages of the applicant. It is not disputed that he was made full time worker and was being engaged for eight hours in a day for which office order was issued. Regarding the other matters, whether the rate of the wages fixed by the Labour Commissioner would apply to the casual labourers engaged by the Department of Posts, it has to be considered by the respondents in its full implication. The respondents have not replied to the representation, which was made by the applicant in this regard and his plea for restoring the wages, which was fixed for him after enhancing the working hours, has not been replied to. After arguments were heard in this O.A., both the learned counsels agree that there was room for further examination of the matter as the stand taken by the respondents in some aspects of the case has not been fully clarified and convincingly explained. For example, the matter as to how the

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circular of the Ministry of Finance, referred to above, would come in the way of paying the wages to the applicant, which is applicable to regular Group 'D' employees. This is one point, which needs further examination by the respondents. As the learned counsel for the applicant has stated that he has no objection if the Tribunal issues directions to the respondents to re-examine the matter in the light of the observations of the Tribunal. So I am inclined to refer the matter back to the respondents for reconsideration of the matter. It is however, made clear that while reconsidering the matter, the respondents will not merely reiterate the stand which they have defended in this O.A. They should re-examine the matter with an open mind and keeping in view the above observations. If they have to reiterate the same stand, it should be grounded on proper reason and logic.

7. With the above observation, I direct the respondents to reconsider the matter keeping in view the observations made hereinabove and take a decision regarding the matter within a period of three months from the date of receipt of a certified copy of this order.

8. With this, the O.A. stands disposed of, with no order as to costs.



MEMBER-A

GIRISH/-