

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 9th day of January 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. RAFIQUDDIN, J.M.

O.A. NO. 1406 of 1994.

1. Makhan Lal s/o Late Sri Raja Ram aged about 29 years
r/o 224, Patthar Gali (Dondipur), Allahabad, presently
working as (Outsider Sweeper) under the control of
the Sub-Post Master, Allahabad City Post Office, Allahabad

..... Applicant.

Counsel for applicant : Sri R.C. Pathak.

Versus

1. Union of India through the Secretary for Communication,
Ministry of Communication, Govt. of India, Dak Bhawan,
Patel Chowk, New Delhi.

2. The Chief Post Master General UP Circle, Lucknow.

3. The Post Master General, Allahabad Region, Allahabad.

4. The Senior Superintendent, Post Offices, Allahabad.

5. The Assistant Superintendent, Post Offices I, Sub-
Division, Allahabad.

6. The Sub-Post Master, Allahabad City Post Office,

Allahabad..... Respondents.

Counsel for respondents : Sri S.C. Tripathi.

ORDER (ORAL)

BY HON. MR. RAFIQUDDIN, J.M.

The applicant Makhan Lal s/o Late Sri Raja Ram
has approached this tribunal ~~for~~ ^{for} direction to be
issued to the respondents to withdraw or cancel the order
dated 29.4.93 (Annexure A-I) issued by Sr. Superintendent
of Post Offices, Allahabad (Respondent No.4) and also to
treat the applicant as regular service on the post of
Sweeper. By the said order, the applicant has been
treated as Out-sider and was asked to work as contingency

paid sweeper. The case of the applicant as disclosed in the O.A. is that after the superannuation of the father of the applicant, who was employed under the Sub-Post Master, City Post Office, Allahabad w.e.f. 31.7.87, the applicant was appointed w.e.f. 1.8.87 on the post of CP Sweeper (Safaiwala). The applicant claims that he has all along been working on the post of Sweeper regularly without any break in service. The applicant also claims that he was paid salary upto Feb.1992 for the post of CP Sweeper. However, the applicant is being treated as an outsider from March 1992 and he has been denied his due salary. The applicant also claims that the employees appointed along with him have been allowed and paid all the benefits. The applicant alleges that he is the victim of one Shri Daya Shankar Pandey, Incharge, Sub-Post Office, Allahabad City Post Office, Allahabad who had intentions to appoint some officials to the post of Sweeper in place of the applicant. Accordingly two Sweepers, who were junior to the applicant, have been appointed on regular basis on the post of Safaiwala. The applicant submitted a representation to the respondents and also ^{sent} ~~present~~ notice under 80 CPC through his counsel but without any result hence he has filed this O.A.

2. We have heard Sri R.C. Pathak for applicant and Sri S.C. Tripathi for the respondents.

3. It is admitted to the respondent vide paragraph 7 and 10 of ^{2 MCA} ~~this O.A.~~ that the applicant was appointed as CP Sweeper purely on the basis of ad-hoc appointment in the year 1987. It is further stated that the applicant was relieved from the post of Sweeper on the availability of the approved candidate for appointment on the said post of Sweeper. However, considering the exigency of the work, the applicant was again engaged as part-time contingency paid sweeper for three hours only and is

being paid as wages accordingly.

4. It is, thus, clear that the applicant was admittedly engaged by the respondents as Sweeper on ad-hoc basis from the year 1987 till the impugned order dated 29.4.93.

5. It has been contended by the counsel for the respondents that since the appointment of the applicant was purely on ad-hoc basis and due to non-availability of an approved candidate for appointment of post in question, the applicant was re-engaged as a part-time contingency paid Sweeper for three hours. However, we find that the name of the alleged approved candidate has not been disclosed in the C.A. It has also not brought to the notice whether there was any list of approved candidate for appointment of the post in question. The claim of the applicant that some junior persons to the applicant have been accommodated and appointed on the post of Sweeper has not been specifically denied by the respondents.

6. We, therefore, do not find any justification on the part of the respondents to convert the nature of the appointment of the applicant from full time to part time. We also find that the applicant has all along been working as Sweeper on casual/ad-hoc basis either full time or part time from the year 1987 till date.

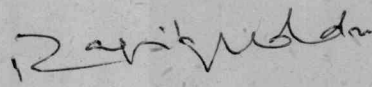
7. Counsel for the applicant has also brought to our notice the scheme framed by the department of Post on 11.5.89 and instructions issued by the Department vide letter dated 12.4.99 regarding regularisation of casual labourers which ~~are~~^{is} taken on record. On perusal of this scheme, it is found that as per instructions contained in this letter, temporary status was to be conferred on the casual labourers who were in the employment in the department of Post on 29.11.89 and who continued to be

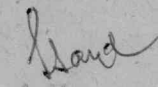
currently employed and have rendered continuous service of atleast one year during the year and they must have been engaged for a period of 240 days (206 days in the case of offices observing 5 days in a week). In the present case admittedly the applicant was in employment in the year 1989 and 1991 as casual labour and had also completed 240 days service. Therefore, the applicant was entitled for grant of temporary status and other consequential benefits mentioned in the instructions. The respondents, it appears, have not taken any steps in the light of these instructions in respect of the applicant.

8. We, therefore, allow this O.A. and direct the respondents to examine the case of the applicant for conferring the temporary status/regularisation on a group D post as well as other consequential benefits as laid down in the aforesaid instructions from the date of grant of such benefits to his juniors.

9. This exercise will be carried out within a period of three months from the date of receipt of this order.

There shall be no order as to costs.


J.M.


A.M.

Asthana/