

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 26TH day of SEPTEMBER 2005.

Original Application No. 1612 of 2003.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Hon'ble Mr. A.K. Singh, Member (A)

Kishan Lal Singh, S/o Late S.P. Singh,
R/o Quarter No. 1 Type II, New Colony,
N.S.I. Campus, Kalyanpur,
KANPUR.

.....Applicant

By Adv: Sri A.K. Srivastava

V E R A U S

1. Union of India through the Secretary,
Ministry of Food, Govt. of India,
(Department of Food and Public Distribution),
NEW DELHI.
2. The Director,
National Sugar Institute,
Kalyanpur,
KANPUR.

.....Respondents


By Adv: Sri V. V. Mishra.

OR D E R

By K.B.S. Rajan, JM

By order dated 09.05.2002 the following
direction was given:-

*"Learned counsel for the applicant states
that the relief claimed in this O.A. is
regularization on the post of Boiler
Attendant on the ground that he has been
working on the same post for a very long
time. Counsel for the respondents states*



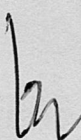
that there is no sanctioned regular post and as soon as such a post arises, the case of the applicant shall be considered on merits in accordance with rules. Counsel for the applicant would be satisfied if directions are issued to the respondents that the case of the applicant for regularization shall be considered in due course whenever such a vacancy arises in accordance with rules applicable at that time. Accordingly the OA is disposed of with the direction as mentioned above. No order as to costs."

2. In the wake of the above, the respondents have asked the applicant to work immediately as Boiler Attendant. In this regard order dated 29.11.2002 (Annexure 5) is relevant.

3. Learned counsel for the applicant submits that a perusal of annexure 3 (collectively) would reflect that the applicant had been functioning as Boiler Attendant throughout, but he has not been paid his pay and allowances applicable to the said post. He has further invited our attention to para 9 of the counter, wherein it has been clearly admitted by the respondents that "the applicant was performing the duties of the boiler attendant but he could not be regularized on the post of Boiler Attendant as there was no sanctioned regular post of Boiler Attendant in ESF." He has, therefore, submitted

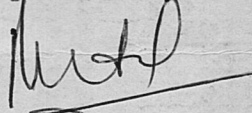


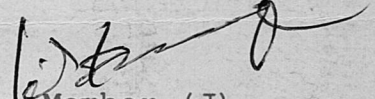
that there is absolutely no justification in not paying the applicant the pay and allowances as for a Boiler Attendant. The counsel for the respondents has not refuted the above, nor could he, as the basis of the submission of the counsel for applicant is the very counter filed by the respondents. As such, the respondents should pay the applicant pay and allowances as Boiler Attendant w.e.f. 29.11.2002, though not from the time the applicant was asked to perform the duties of Boiler Attendant. The respondents are directed to pay the applicant his salary in the scale applicable to Boiler Attendant w.e.f. 29.11.2002 and also consider his case for regular appointment and attempt should be made to have such regular appointment from the afore date when he was asked to perform the duties as Boiler Attendant, subject, however, to availability of post and pass suitable order in this regard. This is on account of the fact that though work is available and the applicant is function, no post has been created and the applicant, if treated as on ad hoc basis, would correspondingly lose that much period of regular service which is counted for purpose of grant of ACP as and when he completes 12 years of service. Payment of arrears shall be made within three months from today. While payment of his salary as Boiler Attendant shall be paid at the



end of each month commencing from the pay for the month of October 2005.

4. The OA is disposed of on the above term.


Member (A)


Member (J)

/pc/