

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 09.02.2001.

O.A. No. 223/1998
M.A. No. 143/1999
in
O.A. No. 223/1998

Durga Ram Patel S/O Sh. Budha Ram Patel, Phone Mechanic,
Telecom District Manager, Pali Marwar, R/O 1-Da-45 Kamla
Nehru Nagar, Housing Board, Pali.

... Applicant

Vs

1. The Union of India, through the Secretary to the Government, Department of Telecommunication, Govt. of India, New Delhi.
2. The Telecom District Manager, Department of Telecommunication, Government of India, Pali Marwar.

... Respondents

Mr. Harish Mathur, Adv., Brief holder for
Mr. Govind Mathur, Counsel for the Applicant.
Mr. S.K. Vyas, Counsel for the Respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Durga Ram Patel, has prayed for a direction to the respondents to post the applicant in the regular cadre of Phone Mechanic from the date he qualified the Departmental Screening Test and further to make payment of salary with all other benefits from the date he qualified the Departmental Screening Test alongwith arrears.

Gopal Singh

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2. Applicant's case is that he was initially appointed as temporary Mazdoor on 01.10.1990. He qualified the Departmental Screening Test of Phone Mechanic held on 25.6.1994, and thereafter completed necessary training pertaining to the post of Phone Mechanic from 13.1.1997 to 06.3.1997. On successful completion of training, the applicant was directed vide respondent letter dated 10.3.97 (Annexure A/5) to join duty as Phone Mechanic under the control of Divisional Engineer (Elob) Pali Marwar and accordingly, the applicant had joined duties there. The respondents made payment of the salary to the applicant in the pay scale of Phone Mechanic (Rs.975-1540) for about seven months and thereafter, the same was stopped and the respondents thereafter started making payment to the applicant on daily rate basis. Many representations were submitted by the applicant in this regard, but to no avail. Hence, this application.

3. In the counter, it has been stated by the respondents that the applicant was never appointed as Phone Mechanic. The salary paid to the applicant for initial 07 months as alleged by the applicant was provisional subject to receipt of the LPA Pay Certificate. On receipt of the LPA, the applicant was paid the daily rate wages as per the endorsement. Hence, it has been averred by the respondents that the application is devoid of any merit and deserves dismissal.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. The applicant is claiming that he has been paid regular salary in the regular pay scale of Phone Mechanic, but has not produced any document to support this contention. Respondents have produced a document (Annexure R/2), which bears the endorsement of the Accounts Officer to draw provisional pay

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at the minimum of the scale and letter may be issued to A.O. D.T. (Mtc) to send LPC. It is perhaps, on this basis that the applicant is claiming that he was paid regular salary in the regular scale. The applicant was directed to join as Phone Mechanic under Divisional Engineer (Elob) Pali Marwar vide letter dated 10.3.97 (Annexure A/5). This letter was issued by Sub Divisional Engineer (Administration) Pali Marwar. This letter, however, cannot be treated as an appointment letter on the post of Phone Mechanic. Subsequent endorsement by the Accounts Officer concerned as seen from (Annexure R/2) does not imply that the pay allowed to the applicant was final. He was only allowed provisional pay and the Last Pay Certificate was called for. In these circumstances, we cannot believe the statement that the applicant was appointed as Phone Mechanic and was granted the scale of Phone Mechanic. It is also seen from the representation dated 'Nil' placed at Annexure A/6, that the applicant was never granted the pay scale of Phone Mechanic. This also lends support to our view that the applicant was never granted the regular pay scale of the post of Phone Mechanic. We consider it appropriate to extract below the relevant portion of the representation of the applicant placed at Annexure A/6 :

" कि मैं फोन मैकेनिक का प्रक्षिप्त दिनांक 6-3-97 को सफलता पूर्वक प्राप्त करके आपके कार्यालय पत्र संख्या 83/ सन आओ सी/ फोन मैकेनिक/ 96-97/ 194 दिनांक 10-3-97 को फोन मैकेनिक के पद पर कार्य या सम्भाला सम बी एफ 10 बी मंडिया रोड पाली ।

लेकिन उपरोक्त आवेदन पत्र बार बार देने पर भी मुझे आज दिनांक तक उक्त ग्रेड नहीं मिला मेरे मानसिक आधार भी पहुँचा है ।

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The applicant has himself admitted in this representation that he was never granted the scale of Phone Mechanic.

6. In the light of above discussion, we do not find any merit in this application and the same deserves to be dismissed.

7. The Original Application is accordingly dismissed with no order as to costs.

8. In Miscellaneous Petition No. 143/99 (in O.A. No. 223/98) the applicant has prayed for a direction to the respondents to utilize the services of the Petitioner as Phone Mechanic and that they may be restrained from treating the Petitioner as temporary skilled Mazdoor. In view of the fact that the O.A. has been disposed of on merits as above, this Miscellaneous Application does not survive. Hence, this MA is also dismissed as having become infructuous.

Gopal Singh
(GOPAL SINGH)

Adm. Member

J

9/11/2001
(A.K. MISRA)
Judl. Member

Mr. D
15.2.2001

Mr. D
15.2.2001