

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
Date of order : 20/9/99

O.A.NO. 155/1998

Surbjeet Singh S/o Shri Mehang Singh, Aged about 30 years,
R/o B-83, Sadulganj, Near Karni Mata Mandir, Bikaner,
Official Address Daily Rated Driver, Bikaner Central Sub-
Division I, C.P.W.D., Bikaner.

.....APPLICANT

VERSUS

1. The Union of India through the Secretary, Ministry of Urban Development, Government of India, New Delhi.
2. The Supdt.Engineer, C.P.W.D., Jodhpur.
3. The Executive Engineer, Bikaner Central Division, C.P.W.D., Bikaner.
4. The Assistant Engineer, Central Sub Division I, C.P.W.D., Bikaner.

.....RESPONDENTS

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Mr.Kamal Dave, Counsel for the applicant.
Mr.Ramesh Singh,Adv.Brief Holder for
Mr.Vineet, Mathur, Counsel for the respondents.

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CORAM :

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER MR.A.K.MISRA :

The applicant has filed this application with the prayer that the impugned transfer order dated 14.5.1998 (Annex.A/1) and order dated 11.6.1998 (Annex.A/2), rejecting the representation of the applicant be quashed and set aside

20/9/99

qua the applicant. The applicant has prayed alternatively that the respondents be directed to pay to the applicant usual allowances as admissible to transferred employees before implementing the transfer order.

2. Notice of the O.A. was given to the respondents who have filed their detailed reply to which a rejoinder was filed by the applicant. It is stated by the respondents that applicant being a Casual Labour is not entitled to any transfer T.A. and Allowances or ordinary travelling allowance etc. on his deployment to the place of work, as per the Government of India Instructions in this regard.



3. The case of the applicant is that he was employed by the respondent department as daily rated Casual Driver w.e.f. June 1988 and was shifted to Bikaner as the entire project was shifted to Bikaner in October 1988. By impugned order Annex.A/1, the respondent No. 3 has transferred the applicant from Bikaner to Anupgarh and two other persons have also been transferred by the same order. He has further stated in the O.A. that impugned order clearly goes to show that the applicant was not transferred from one working point to another because of non availability of work. All the three persons mentioned in the transfer order Annex.A/1 have been transferred by way of rotation and, therefore, element of non availability of work is absent in the instant case. Therefore, the applicant is entitled to get his transfer order quashed alternatively he is entitled to transfer grant a allowances.

4. We have heard the learned counsel for the parties and gone through the record. The respondents' contention is that Casual Labours are not entitled to any TA/DA much less the transfer grant etc. In support of this contention, the respondents have placed on record Annex.R/1 which is quoted hereunder :-

"GID (5) applies to Casual Labour with temporary status also-A number of references has been received from some circles seeking clarification on the admissibility of 'T.A./D.A.' to Casual Labours with temporary status.

2. The case has been considered carefully in the light of the provision of the scheme and the previous rulings on the matter. In this context your kind attention is invited to para.5(iv) of the scheme as circulated vide this Office Circular No. 269-10/89-STN, dated 7.11.1989, wherein it is mentioned that Casual Labourers with temporary status cannot be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts. Hence, they cannot be treated at par with regular Group 'D' officials until their regularisation for the purpose of admissibility of T.A./D.A. to them. They are, therefore governed by the provisions of this Office Circular No. 21-85/72-PAT, dated 5.7.1973, which is also equally applicable to the Casual Labourers without temporary status. In accordance with that letter the Headquarters of Casual Labourers with temporary status, which is the duty place, is to be determined sufficiently in advance where they are needed on particular dates and they should, accordingly, be asked to report for duty at the place of work, without payment of any T.A./D.A. for such shifting.

3. Conferment of temporary status only renders the Casual Labourers with certain benefits as laid down in the scheme and as such they are not entitled to any benefits other than those specified in the scheme."

From this Circular, it appears that temporary status-holder Casual Labourers are only entitled to those benefits which have been mentioned in the scheme. No other benefit can be granted to them

which is not mentioned in the scheme. Resultantly, transfer Grants and transfer T.A. cannot be granted to them. In the instant case, the applicant is not said to be a temporary status-holder. Even if, by virtue of his working as Casual Labour daily rated worker for number of years, the applicant is taken to be a temporary status-holder Casual Labour then also he would not be entitled to any transfer Grant and transfer T.A. as per the Government of India Instructions cited above. No doubt, by impugned order three drivers working at three different places have been rotated but within the project areas ~~are~~ under the control of respondent No. 3. A Casual Labour daily rated person can be directed to work at a particular place for discharging his duties within the project area. Whether work is available at a particular place for purpose of retaining that Casual Labour at that place, is a question of fact of law. In this regard, the controlling and the supervisory authorities are the best judge. Moreover, suitability of the daily rated casual worker at a particular place is also the consideration of the controlling officer. Sometimes transfer is made to ^{improve} the efficiency of a working person. In this case, it cannot be said that deployment of the applicant and two others at three different places is in violation of Government of India Guidelines or malafide. Therefore, the applicant in our opinion is not entitled to get his transfer order quashed.



Dm

5. Keeping in view the above discussions, a casual labour daily rated Driver is not entitled to any T.A. or ordinary T.A./D.A. as per the Government of India Circular ~~issued~~, therefore, the claim of the applicant is devoid of any force in this regard.

6. In view of the above discussions, the Original Application deserves to be dismissed and is hereby dismissed with no orders as to costs.

Gopal Singh

(GOPAL SINGH)

Adm. Member

AM 7/19/99

(A.K.MISRA)

Judl. Member

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