

J/S

CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR

O.A. NO. 170/2001

Date of Order: 16.9.2002

Karan Singh s/o Shri Shankar Lal by cast Jain, aged about 50 years, Resident of House, Imliwala Hanumanji Ka Pas, Naya Bazar, Kankroli, Distt. Rajsamand, presently working as Chowkidar, in the Head Post Office, Kankroli.

...APPLICANT.

V E R S U S

1. Union of India, through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur - 7.
3. Post Master General, Eastern Region, Ajmer.
4. Supdt. Post Offices, Udaipur.

...RESPONDENTS.

Mr. P.N. Jatti, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

Coram:

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER.

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.

: O R D E R :

( J.K. Kaushik, Judicial Member )

Shri Karan Singh has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

.. 2 ..

In

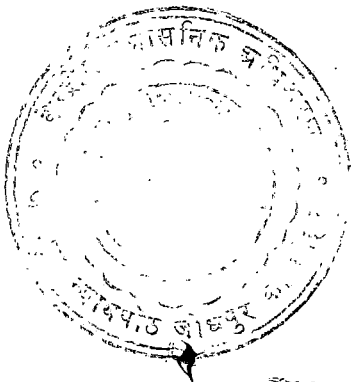
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"8.1 That as the applicant has been working as a Chokidar since 1-4-1998 for Twelve hours a day, therefore by a suitable writ/order or direction the respondents be directed to regularise the service of the applicant with effect from 1-4-1988 as a Group 'D' Chowkidar.

8.2 That by a suitable writ/order or directions the respondents be directed to pay the full pay and allowances with effect from 1-4-1988 of a Group 'D' Chowkidar.

8.3 Any other relief which the hon'ble court deems fit."

2. The brief facts of the case as narrated in the Original Application are that the applicant has been appointed on the post of E.D. Messenger in Kankroli Head Post Office on 11.05.1987. His character and antecedent verification was got done vide letter dated 16.04.1988 which shows that he was appointed as Chokidar w.e.f. 01.04.1988. His conduct and character was found correct. His name was also registered with the Employment Exchange.



3. That the applicant has been working for 12 hours a day but when there was a problem regarding payment of his dues, he had to submit a representation and on the representation of the applicant the Post Master indicated that his duty hours were from 18.00 hours to 06.00 hours vide letter dated 08.12.1991 (Annexure A/7). He requested for making payment for 12 hours. His duty was fixed for more than 12 hours as reflected in Annexure A/8. He has not been paid his full wages. He has also not been regularised on the post of Chowkidar.

4. The respondents have filed a counter reply to the Original Application and have controverted the facts mentioned in the Original application. It has been averred that the applicant was employed only for a period of 7 hours and in proportion to his

*[Handwritten signature]*

working hours, he has been paid his due salaries. As regards the working on the post of Chowkidar, there is no post of Chowkidar sanctioned at Kankroli Post Office and the applicant was in fact engaged at his own request as a temporary measure to guard the Post Office. He is working as a part time contingent Chowkidar and he is not entitled for the regularisation on the post of Chowkidar. Therefore, the O.A. deserves to be dismissed.

5. The applicant has filed a rejoinder to the reply and has reiterated the facts mentioned in the Original Application. He has submitted certain letter by which the applicant was required to submit explanation. He was also <sup>warned</sup> for not working and carrying out of the duties on the post of MCC during 18.00 hours to 18.30 hours.

6. We have heard the learned counsel for the parties and have perused the records of this case.

7. The primary issue involved in this case is as regard to number of hours the applicant has been working. From perusal of Annexure A/7 a noting has been given by the Chief Post Master that the duties of applicant are from 6.00 PM to 6 AM. This fact is also evident from Annexure A/8 where he was required to work from 18.00 hours to 18.30 hours. On the other hand, the respondents have submitted that his duty hours were from 22.00 hours to 5.00 hours only. The contention of the respondents ~~is~~ that the applicant was employed only for a period of 7 hours, is not supported by any document on record. On the other hand, the plea of the applicant that he has been working for 12 hours on the post of Chokidar is well founded

and supported by the documents which are placed on the record. In this view of the matter, we are of the considered view that the applicant has been working for full day and as per the formula being used for making payment to the person who is employed on the post of Chowkidar. The applicant is entitled to the full payment meant for 8 hours duty in normal course (which is equivalent to 12 hours working on the post of Chowkidar).

8. Now we would consider the second issue involved in this case, the second issue is regarding the regularisation of the applicant on the post of Chowkidar. In the very outset, we would like to mention that the applicant is holding the post of E.D. Messenger/Carrier on regular basis and he has been employed to work on the post of Chowkidar only as a contingent paid worker. As per the Service Rules for Postal E.D. Staff there is a provision of promotion on various Group 'D' posts as per para (8) known as promotion prospectus to the said Rules. The E.D. employees would be eligible for consideration for promotion to the post of Group 'D' like the post of Postman, Village Postman and Mail Guard etc. There are other rules governing the recruitment rules for cadre of Group 'D' and wherein the E.D. employees are eligible for recruitment as group 'D' posts. The learned counsel for the applicant has drawn our attention to the provision of casual labour (Grant of Temporary Status and Regularisation) Scheme in Deptt. of Posts. The applicant is not a casual labour and this scheme has no application to his case. There is no rule that merely a person is working as a contingent paid Chowkidar, he can be regularised as a regular Chowkidar. There has to be

vacancy for the post of Chowkidar. One has to be within the consideration zone as per the norms and has to also fulfil the other eligibility conditions as required for the post of Chowkidar. Such consideration are required to be made by the departmental authorities as and when there is any requirement to the post of Chowkidar or any other Group 'D' post and no specific direction or interference is required from this Tribunal. In this view of the matter, we do not find any force as regards to the relief relating to the regularisation of the applicant on the post of Chowkidar and that ~~too~~ from retrospective date i.e. from 01.04.1988, ~~...~~ S.E.

9. In view of the foregoing discussion, the Original Application is partly allowed and the applicant shall be entitled to the salary for full day duty of eight hours as per our above observation, so long he is employed as full time contingent paid Chowkidar, however, the arrears on this count shall be payable only for a period of three years prior to the date of filing of this Original Application. This order shall be complied with within a period of three months from the date of receipt of this order. No order as to costs.

  
( J.K. KAUSHIK )

Judicial Member

  
( GOPAL SINGH )

Adm. Member

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