

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.586/05

Thursday this the 6 th day of July 2006.

CORAM:

HON'BLE MR. K.B.S.RAJAN, JUDICIAL MEMBER

R.Radhamony, W/o Gopinathan,
Part Time Sweeper-cum-Scavenger,
Sub Record Office, Railway Mail Service,
TV Division, Kottarakkara. Applicant

(By Advocate Shri K.T.Thomas)

Vs.

1. Chief Post Master General,
Kerala Circle, Trivandrum.
2. Senior Superintendent,
Railway Mail Service, 'TV' Division,
Thiruvananthapuram – 695 036.
3. Sub Record Officer,
Railway Mail Service, 'TV' Division,
Kottarakkara. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

The application having been heard on 6.7.2006
the Tribunal on the same day delivered the following

ORDER

HON'BLE MR. K.B.S.RAJAN, JUDICIAL MEMBER

Heard the counsel for the respondents and this order has passed
invoking the provisions of Rule 15 of the AT's Act.

2. The applicant has prayed for the following reliefs:
 - a) To call for the records leading to Annexure A2 order and quash the same.
 - b) To pass appropriate orders restraining the respondents from reducing the working hours of the applicant.

- c) to declare that the applicant is entitled to continue as full time sweeper/scavenger w.e.f 1.7.1998 and direct the respondents accordingly;

3. In the respondents in their reply statement stated as under:

"It is submitted that Sub Record Office, Kottarakkara is a small unit under RMS 'TV' Division with 4 clerks. The total area of the office is only 2076 sq. ft. which includes cycle shed also. As per norms, the area prescribed for sweeping is 1250 sq. ft per hour. If this yardstick is applied, duty hours of the applicant for sweeping is to reduce to 1 hrs. 40 mts. There are only 3 toilets and 2 washbasins for scavenging and cleaning. Even if, 15 mts per toilet for scavenging and 10 mts per washbasin for cleaning is allowed, the total work hours per day comes to 1 hr 15 mts. Thus, in the present situation, both the work (sweeping and scavenging) can be done within 5 hrs. Moreover, before 2.3.1992, the applicant was doing sweeping twice daily since there were two sets (set/I and set/II) of Kottarakkara Sorting. With effect from 2.3.1992, night unit has been abolished and Kottarakkara Sorting was converted into an outward Sorting office only and is functioning with only one set. Hence, from that date onwards, the work of sweeping is done only once a day causing reduction in the working hours of sweeping. Further, a proposal for merging Sub Record Office, Kottarakkara with Sub Record Office, Kollam is under active consideration of the department. Hence, it is decided that there is no justification for combining the work of scavenging and sweeping at Sub Record Office, Kottarakkara by providing 7 ½ hrs duty to the applicant and the representation of the applicant to provide 7 ½ hrs duty and treating her at par with full time employee was rejected."

4. The matter has been considered. The hours of work for the sweeper necessarily depend upon the extent of area to be covered. If according to certain norms, the time limit for Sweeper is prescribed and according to the respondent there is no justification for enhancement of the working hours, no legal right of the applicant got violated or denied. As such the application being devoid of merit and the same is dismissed. No costs.

Dated the 6th July 2006.


K.B.S. RAJAN
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.586/05

~~Filed~~ day this the ~~20th~~ day of ~~June~~, 2008.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Dr.K.S.SUGATHAN, ADMINISTRATIVE MEMBER

R.Radhamony,
W/o Gopinathan,
Part Time Sweeper-cum-Scavenger,
Sub Record office,
Railway Mail Service, TV Division,
Kottarakkara. Applicant

(By Advocate Shri K.T.Thomas)

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1. Chief Postmaster General, Kerala Circle
Trivandrum.
2. Senior Superintendent,
Railway Mail Service, 'TV' Division,
Thiruvananthapuram -695 036.
3. Sub Record Officer, Railway Mail Service,
T.V.Division, Kottarakkara. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

The application having been heard on 25.4.2008,
the Tribunal on ~~20.06.08~~ delivered the following.

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

This O.A. was earlier heard and dismissed vide order dated 6th July, 2006.

However, when the matter was taken up with the Hon'ble High Court, the High Court
has held as under:-

"This Writ Petition is filed against the order passed by the Central Administrative Tribunal in O.A. 586/05. Petitioner sought to quash Annexure A2 order and also for a direction to the respondents from reducing the working hours of the petitioner and also for a declaration that the petitioner is entitled to continue as Full Time Sweeper/Scavenger from 1/7/98 with all consequential benefits. Tribunal in our view has not considered the first relief, that is to quash Annexure A2 order as well as the third relief seeking a declaration that the petitioner is entitled to continue as Full Time Sweeper/Scavenger from 1/7/98. Second relief was considered

by the Tribunal and was rejected. Considering the facts and circumstances of the case, we set aside the order of the Tribunal and direct Tribunal to re-examine the whole issue afresh. The order of the Tribunal is accordingly set aside.

Writ Petition is disposed of as above."

The whole issue is thus reconsidered in this order.

2. Briefly the facts of the case are as under:-

(a) The applicant is presently working as Part Time Casual Labourer at Sub Record Office, Railway Mail Service, T.V. Division, Kottarakkara, discharging the duties of part time sweeper and part time scavenger. Her appointment was through Employment Exchange and the total duration of work allotted to him as per order dated 7th June, 1984 and first March, 1993 amounted to 5 hours. This duration was further increased to 7.5 hours w.e.f. 01-07-1998.

(b) When there was a move to reduce the duration of the work of the applicant by 1.5 hours for accommodating another individual as a part time scavenger, the applicant moved O.A. No. 1711/98. The same was disposed of by order dated 17-04-2001 recording the undertaking of the respondents that the feasibility of adding the working hours of vacant part time scavenger post at Sub Record Office, Kottarakkara with that of the work hours of the applicant would be considered. Status quo order till then was also passed.

(c) However, by Annexure A-2 order, the respondents had rejected the claim of the applicant for regularisation and also for combining the work of part time sweeper and part time scavenger. It is this order that has been challenged by the applicant.

(d) The applicant has, thus sought the following relief:-

(i) To call for the records leading to Annexure A-2 and quash the same;

(ii) To pass appropriate orders restraining the respondents from reducing the working hours of the applicant;

(iii) To declare that the applicant is entitled to continue as full time sweeper/scavenger w.e.f. 01.07.1998 and direct the respondents accordingly;

(iv) To direct the respondent to regularize the service of the applicant as full time sweeper/scavenger w.e.f. 01.07.1998 and grant all consequential benefits.

3. Respondents have contested the O.A. According to them, the inclusion of 2.5 hours of work from 01-07-1998 was only a stop gap arrangement and hence, the applicant can have no legal claim to work as a scavenger. It has also been submitted that consequent to the abolition of the Departmental Rest House at Shenkottah, part time scavenger working in that Rest House for years together was transferred and posted at Sub Record Office, Kottarakkara for a quantum of work of 1.5 hours, in the vacant post of PT scavenger available there. This is purely to rehabilitate the part time sweeper at the Rest House, Shenkottah. It was this act of the respondents that was challenged in OA 1711/98 and the said application was disposed of with a direction to the respondents to take a decision in the matter and till then status quo be maintained. It has further been contended that the contention of the applicant that she is actually working for 7.5 hours is wrong. According to the respondents, the total area of common toilet cleaned by the applicant accorunts for 85 + 71 sq. feet i.e. 156 sq. feet; 2 wash basins are to be cleaned and as Part Time Sweeper, the total area to be swept is 2076 sq. feet plus 10 sorting cases. As per the norms, an area of 1250 is to be covered within one hour of sweeping and with that yardstick, the total period of work per day would come to less than 5 hours. Again, as the night unit at Kottarakkara Sorting was stopped there was reduction in the sweeping to once a day only. Hence, it was decided that there was no justification for combining the work of scavenging and sweeping at Sub Record Office Kottarakkara by providing 7.5 hours duty to the applicant and hence the claim of the applicant was rejected, vide Annexure A-2 order.

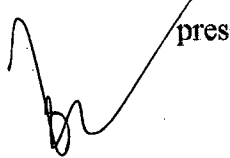
4. When the case was heard after being remanded from the Hon'ble High Court, vide order dated 21-02-2008 it was observed that the office of S.R.O. Kottarakkara has been merged with SRO Kollam, consequent to which the applicant has been shifted to HPO at Kottarakkara, where she has been performing the duties as Part time Casual Labourer. The particulars contained in para 10 of Annexure A-2 having thus become less relevant, the respondents were directed to file a fresh affidavit containing the details of the area of the building wherein the applicant is presently performing duties, mainly, in respect of sweeping. Certain other attendant information were also called for in the said order.

5. In compliance with the above said order, the respondents had furnished the requisite information through an affidavit. The information furnished is as under:-

It is submitted that the total sweeping area of Kottarakara HO wherein the applicant is at present performing duties is 837.85 M². Area in which the applicant is doing sweeping work at Kottarakars HO is 376.95 M².

Shri Remanan, another Part Time Casual Labourer is also working at the same premises (Kottarakara HO) with a quantum of work of 7 ½ hours per day. No Part Time Casual Labourer is regularised in teh recent past.

It is submitted that the total area in which the applicant is doing sweeping work is 376.95 M². As per norms the area prescribed for sweeping is 118 M² per hour. If this yard stick is applied duty hours of the applicant for sweeping is 3 hours and 10 minutes. In addition to the above the applicant is performing scavenging one bath room and 2 toilets. Even if 15minuts per toilet for scavenging and 15 minutes for cleaning one bath room is allowed the total hour per day comes to 45 mts. Thus in the present situation both the work sweeping ans scavenging can be done within five hours. The present working hours of the applicant at Kottarakara HO is 5 hours.



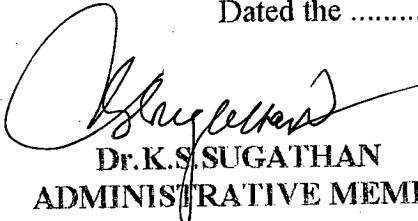
6. Under the above circumstances, the Applicant's prayers in the Original Application are devoid of any merit and the Applicant is not entitled to get any of the reliefs sought for in the Original Application and the same is liable to be dismissed with cost to the Respondents."


7. The above details have not been refuted by the applicant.

8. Considering the facts and circumstances of the case, especially the fact that there has been a change in the place of work of the applicant and that there is another Part Time Sweeper working therein, it is clear that there is not adequate work for the applicant to enable the respondents to convert her part time into full time or from reducing the working hours of the applicant. Since the other part time sweeper is doing the same job quantum wise, whatever benefits he is given, shall alone be admissible to the applicant. Consequently, the relief sought for, vide quashing of Annexure A-2, cannot be allowed. Again, since the work load is not that much as to warrant a full time job for the applicant, her relief vide © of para 8 extracted above is also not allowed. In so far as relief (d) is concerned, respondents shall take suitable action as per the provisions of extant rules and while so taking such action, it be ensured that between the two part time scavengers no discrimination takes place. The decision of the Apex Court in respect of the entitlement of part time casual labourers for absorption etc., as discussed in the decision by the Apex Court in the case of Secy. Ministry of Communication vs Sakkubai, (1997) 11SCC 224 be kept in view. It is however, directed that should there be any necessity to engage any other part time worker to work in the same premises or nearby areas, the same be combined with the work of the applicant and it be seen whether the total work accounts for a full time casual labour job.

9. With the above observations, the O.A. is disposed of. No cost.

Dated the20th.....June 2008.


Dr. K. S. SUGATHAN
ADMINISTRATIVE MEMBER


Dr. K. B. S. RAJAN
JUDICIAL MEMBER