

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.439/2005
This the 29th day of August 2008

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Radhey Lal, aged about (Nil) years, S/o Late Shri Munna Lai,
resident of – opposite Muniipal School, Ashok Kothi, Lucknow.

...Applicant.

By Advocate: Shri Praveen Kumar.

Versus.

1. Union of India through the Director General Works, Nirman Bhawan, New Delhi.
2. Chief Engineer, North Zone-II, CPWD, Aliganj, Lucknow.
3. The Executive Engineer, CPWD, Lucknow Central Division-1, Central Bhawan, Aliganj, Lucknow.
4. The Assistant Engineer, C.P.W.D., Lucknow Central Division-1, Central Bhawan, Aliganj, Lucknow.

... Respondents.

By Advocate: Shri N.H. Khan.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this OA under Section 19 of the Administrative Tribunal Act, 1985 with a prayer to quash the order Dt. 28.02.2005 (Annexure-A-1) and direct the respondents to pay the difference of salary to the post of Plumber and Beldar during the period the applicant worked on the said post with interest @ 18% per annum.



2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that the competent authority had never asked the applicant to perform the duties of Plumber and as such, the applicant is not entitled for any relief as claimed by him.
3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and reiterated the pleas of his OA.
4. Heard both sides.
5. The point for consideration is whether the applicant is entitled for the relief as prayed for.
6. The admitted facts of the case are that the applicant was appointed on the post of Beldar on 13.08.1991 and he was associated with Plumber Ram Prakash, posted in Kendrenchal Colony. But in the year 1994 plumber Ram Prakash was transferred locally to income tax office and in his place, no body was posted. The applicant also stated that he was trade tested for the post of Assistant Plumber during the year November and December, 1994 (Annexure-A-4) and subsequently, in the year 1995, he made representation for promotion on the post of Assistant plumber (Annexure-A-5). But when there was no response from the authorities, he filed OA No.581/1997 before this Tribunal claiming promotion on the post of plumber but the same was disposed of on 13.01.2005 (Annexure-A-6) with a direction to the respondents to take a decision with regard to difference of pay on the post of plumber during the period the applicant had worked within a period of 2 months. Subsequently, the respondents have considered such claim of the applicant with regard

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to the difference of salary of the post of plumber and rejected on 28.02.2005 (Annexure-A-1), which is under challenge. Admittedly, the post of plumber is the higher post and cadre to the post of Beldar.

7. In support of his claim, the applicant has relied on the correspondence between Respondent No. 3 and Respondent No.4 letter Dt. 01.03.2005 (Annexure-A-7) and Dt. 07.07.2005 (Annexure-A-8), which reveals that the Respondent No.4 informed the Respondent No.3 that they have stopped taking the work of plumber from the applicant w.e.f. 31.01.2005 and intended to take such plumber work from others.

8. From such correspondence, it is clear that the respondent authorities have utilized the services of the applicant as plumber, in addition to his regular job of Beldar in Kendrenchal colony after transfer of plumber Sri Ram Prakash to income tax department till 31.01.2005. Further, it is also not the case of the respondents that they have posted or deputed any other plumber after Ram Prakash transfer to other department. All these circumstances clearly shows that the respondents authorities have utilized the additional services of the applicant in the post of plumber, alongwith his regular post of Beldar and in such circumstances, it is not open to the respondents to reject the claim of the applicant on the ground that no orders have been issued by the competent authority, entrusting additional duty of plumber to the applicant and the same is not at all a sustainable ground and also to be quashed.

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9. Thus, the applicant is justified in claiming difference of pay for his additional work on the post of plumber from the transfer of plumber Sri Ram Prakash till 31.01.2005 as per rules and as such the same is allowed, by quashing the impugned rejection order Annexure-1 dt.28.02.2005, with a direction to the respondents to calculate and pay the same within 3 months from the date of supply of copy of this order. No costs.


(M. KANTHAIAH)
MEMBER (J)
27.02.05

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