

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No 487/2012

Order Reserved on 7.5.2014

Order Pronounced on 23/05/2014

HON'BLE MR. NAVNEET KUMAR MEMBER (J)

Bhagwat Prasad Upadhyay,
Aged about 61 years,
Son of Shri Radhey Shyam Upadhyay,
Resident of Villagek Sri Rampur,
P.O. Dana Bazar (Khapradih) District Faizabad
(Posted as C.P. Chaukidar Rampur Bhagan Post Office at par temporary
group 'D')

Applicant

By Advocate Sri R. S. Gupta.

Versus

1. Union of India through Secretary,
Ministry of Communication Department of Posts,
Government of India,
New Delhi-1.
2. Senior Superintendent of Post Offices
Faizabad East,
Faizabad.
3. Assistant Superintendent of Post Offices,
Faizabad.

Respondents

By Advocate Sri Praveen Kumar for Shri G. K. Singh.

ORDER

By Hon'ble Mr. Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under

Section 19 of the AT Act, 1985 with the following reliefs:-

- (a) That this Hon'ble Tribunal may kindly be s pleased to direct the opposite parties to pay pension w.e.f. 01.02.2011 and pensionary benefits like DCRG, Leave Encashment etc. in lump sum with interest @ 12% on all arrears w.e.f. 01.02.2011 to the date of payment.
- (b) Any other relief deemed, just and proper in the circumstances of the case with costs of original application in favour of the applicant.

2. The brief facts of the case are that the applicant was initially

appointed as CP Chaukidar He injured his

1979. It is submitted by the learned counsel for the applicant was granted temporary status w.e.f. 29.11.1989 and subsequently superannuated on 31.01.2011. He has prayed for release of pay pension w.e.f. 1.2.2011 and other pensionary benefits like DCRG, leave encashment etc in lump sum with interest @ 12% w.e.f 1.2.2011.

3. The learned counsel appearing on behalf of the respondents filed their reply and through reply, the respondents pointed out that the applicant was given temporary status of Group D w.e.f. 29.11.1989 and thereafter sought regularization of temporary status Group D, as there was no vacancy in Group D cadre for regularization of temporary status Group D and therefore he is not entitled to get pensionary benefits. It is also pointed out by the learned counsel for the respondents that the applicant was treated at par with temporary Group D w.e.f. 22.9.1992 vide Memo dated 27.1.1993 and superannuated on 31.1.2011 after attaining the age of superannuation. The respondents have also indicated that vide letter No. 45-95/87-SPB-I dated 12.4.1991 and letter No. 66-9/91-SPB-I dated 30.11.1992, issued by the Director General of Posts, the applicant is not entitled for such payment.

4. The applicant filed his rejoinder and through rejoinder, mostly the averments made in the O.A. are reiterated.

5. Heard the learned counsel for the parties and perused the record.

6. Undisputed fact is that the applicant was appointed as Chaukidar on 10.12.1979 and superannuated on 31.1.2011. He has claimed for payment of retiral benefits like family pension, DCRG, leave encashment etc. for which he has made certain representations which is still not disposed of by the respondents. It is also to be pointed out that the applicant was granted temporary status w.e.f. 29.11.1989 vide office Memorandum dated 8.10.1991 in pursuance of the Director General letter dated 12.4.1991. The applicant was also treated at par with temporary Group D w.e.f. 22.9.1992. These orders were issued vide order dated 27.1.1993. Learned counsel for the respondents stated that


the applicant has demanded payment of pensionary, retiral benefits like pension, family pension etc. According to the Director General of Posts letter No. 45/95/87-SPB-I dated 30.11.1992, he is not entitled for such payment. The relevant para of letter dated 12.4.1991 reads as under:-

"Conferment of Temporary Status does not automatically imply that the casual laborers would be appointed as a regular Group D employee within any fixed time frame. Appointment of Group 'D' vacancies will continue to be done as per the exact recruitment rules which stipulate preference to eligible ED employees." And as per DG Posts letter No. 66-9/01-SPB-I dated 30.11.1992 "Counting of service for the purpose of pension & terminal benefits as in the case of temporary employees appointed on regular basis for those temporary employees who are given temporary status and who complete 3 years of service in that status while granting them pension and retirement benefits after their regularization."

The letter dated 30.11.1992, the applicant is entitled for benefits admissible to temporary Group 'D' employees such as :-

- (i) All kind of leaves admissible to temporary employees,
- (ii) Holidays as admissible to regular employees.
- (iii) As per orders issued on the subject the employees having temporary status are entitled to get the benefits mentions as under.
- (iv) Central Employee's insurance scheme.
- (v) General Provident Fund
- (vi) Medical Aid
- (vii) Leave Travel Concession.
- (viii) All advances admissible to temporary Group 'D' employees.
- (ix) Bonous.

7. Not only this, the averments of the respondents are that since there was no vacancy in Group D cadre for regularization of temporary status Group D as such, the applicant is not entitled for pensionary benefits. It is also to be pointed out that the representations filed by the

 is till pending for final adjudication.

8. The respondents being a model employer it is incumbent upon them to take a decision on the applicant's representation and communicate the same to the applicant.

9. Under such a circumstances, the respondents are directed to consider and decide the applicant's representation dated 20th March, 2012 Annexure A-4 to the O.A. within a period of three months in accordance with law from the date of receipt of copy of this order and the decision so taken be communicated to the applicant.

10. Accordingly, the O.A. is disposed of. No order as to costs.

U.R. Agrawal
(Navneet Kumar)
Member (J)

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