

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO: 379 /2008

This, the 28th the day of July 2010

HON'BLE DR. A. K. MISHRA, MEMBER (A)

Yawar Husain, age 53 years S/o Sajjad Ali, Chowkidar, H.S. Mill PO Sitapur.

Applicant

By Advocate: Sri R.S. Gupta

VERSUS

1. Union of India through the Secretary, Department of Posts, Dak Bhawan, New Delhi-110001.
2. Chief PMG UP Circle, Lucknow
3. SPOs Sitapur.
4. ASPOs Sitapur.

Respondents

BY Advocate: Sri G. K. Singh

ORDER

By Hon'ble Dr. A. K. Mishra, Member (A)

This is an application with a prayer to quash the orders dated 30.9.2008 and 15.10.2008 of the respondent authorities and to direct them to pay the applicant full wages at the minimum level of a Group D employee along with other benefits and also for payment of interest @ 24 % on all arrears amount which is payable to him.

2. The facts of the case have been described in the order dated 18.11.2008 relating to the prayer for grant of interim relief, which was rejected. The respondents have submitted that the applicant was appointed on the post of EDDA on 14.8.76 now re-designated as Gramin Dak Sevak Mail Delivery (GDS MD) and posted at Hargon Sugar Mill. The applicant requested to work additionally on the post of contingency paid (CP) Chowkidar without

claiming extra remuneration. He was allowed to work on CP Chowkidar post and he was paid an extra remuneration of Rs. 100/- for the extra work. The applicant accepted the offer and performed his duty without any complaint. Since he was never appointed on regular Group D post, he has no legal claim to the pay scale and other benefits attached to a regular government Group D employee. He was paid remuneration as per his entitlement as GDS MD and Rs. 100/- extra per month for the extra work performed by him as CP Chowkidar.

3. The original order dated 25.4.2007 of the respondent authority concerned clearly gives a direction that the applicant would look after the work of CP Chowkidar of the post office additionally for which the department would pay him extra remuneration of Rs. 100/- per month. According to the respondents, the applicant accepted this offer willingly and there was no objection on his part in this regard, neither any claim for payment of salary meant for a Group D employee at that time.

4. The impugned order dated 30.9.2008/15.10.2008 was not one of transfer but about entrusting the task of collecting mail from the RMS in addition to his own duty as GDS MD. It has nothing to do with his representation for payment of higher salary. The learned counsel for the respondents states that the facts of O.A. No. 544/97 which was cited by the applicant are entirely different and have no application to the facts of the present case. On going through this O.A., I find that it is in respect of a regular officer of the Postal Department who claimed for the pay scale of a particular post held by him for a specific period. In the present case, the applicant is a

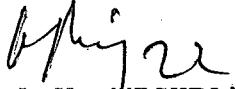
member of GDS service. But he is claiming salary applicable to a regular Group D employee of the department. Therefore, I agree with the contention of the respondents that the facts are different.

5. The limited issue before this Tribunal is whether the applicant is entitled to pay scale of a regular Group D employee. Admittedly, he is a member of GDS service and was being paid salary applicable for the substantive post which he was holding. Admittedly, he was asked to discharge some additional responsibility for which the respondents offered to pay him Rs. 100/- per month. Although, it is stated that the applicant made a representation for payment of wages applicable to a Group D employee, I do not find any such representation made soon after the order dated 25.4.2007 was issued. There is one representation made on 01.11.2008 which is annexed as Annexure-7 to the O.A. There is no evidence whether this representation was at all sent or received by the respondent authorities. This representation was made after he was relieved from his duties as CP Chowkidar and was asked to perform his own duties as GDS MD and also to collect mail from the RMS additionally.

6. It is not the case of the applicant that he was appointed as a casual employee of the department. On the other hand, the respondents have cited the letter dated 45-37/91-SPBI dated 5.6.1991 of the Director General (Posts) saying that the vacancies of casual laborers are not to be filled up. Since, he was not a casual employee of the department, there was no question of grant of temporary status to him, and neither such a claim has been made in this application. The applicant has not

denied that he is being paid as per his entitlement as
GDS MD.

7. In the circumstances, I do not find any merit in the claim of the applicant for payment of salary applicable to a Group D employee of the Department, or to a casual employee having temporary status. Accordingly, the O.A. is dismissed. No costs.


(DR. A.K. MISHRA)
MEMBER (A)

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