

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Reserved on 14.07.2014
Pronounced on 24.07.2014.**

Original Application No.306/2011

**Hon'ble Mr. Navneet Kumar, Member (J)
Hon'ble Ms. Jayati Chandra, Member (A)**

1. Sunil Kumar, aged about 38 years, Son of Shri Prem Lal, Resident of Near Block Salon, District-Raibareli.
2. Smt. Aasha, aged about 37 years, Daughter of Late Mangali Prasad, Resident of -Baba Ka Purva, Lalganj, Raibareli.

-Applicant.

By Advocate: Sri Raj Singh.

Versus.

1. The Chief General Manager, Eastern U.P. Circle, Bharat Sanchar Nigam Limited, Hazratganj, Lucknow.
2. Telecom District Manager, Bharat Sanchar Nigam Limited, District -Raibareli.

-Respondents

By Advocate: Sri G.S. Sikarwar.

O R D E R

By Ms. Jayati Chandra, Member (A).

The applicant has filed this O.A. under Section 19 of Administrative Tribunals Act, 1985 seeking the following relief(s):-

(i) *This Hon'ble Tribunal may kindly be pleased to direct the respondent no.3 to regularize the services of the applicants.*

(ii). *To pass such other orders which are found just fit and proper under the circumstances of the case.*

J. Chandra

(iii). *To allow the original application with cost.”*

2. The facts of the case as averred by the applicants are that the applicant no.1 was initially engaged as Part Time Sweeper in Telecom Exchange Salon w.e.f. 14.11.1991 and applicant no.2 was also engaged as Part Time Sweeper in Telephone Exchange, Lalganj, Raibareli. By Office Memorandum dated 27.11.2002 (Annexure-4) the status of the applicants was changed from Part Time Sweeper to Full Time Casual Labourers. The Respondent No.2 vide O.M. dated 07.05.2006 gave permission to Respondent to Respondent No.3 for regularization of the service of the applicants (Annexure-5). In compliance of the said O.M., the Respondent No.3 issued a letter dated 17/19.5.2007, directing them to submit the Medical Examination Report in order to complete the process of regularization. The applicants have submitted the Medical Examination Report but, noting further was heard. Finally, the applicants have learnt that by a letter dated 21.06.2010 (Annexure A-7) sent by Respondent No.3 and Respondent No.2 certain clarifications have been sought with regard to the number of vacancies available in Raibareli where the regularization of the applicants are desired. The applicant no.1 preferred a detailed representation dated 15.04.2011 (Annexure A-8) seeking for their regularization in continuation of the regularization process started in the year 2006 but, are yet to get any response. In the absence of any positive action, the applicants have filed the present OA.

3. The respondents filed their reply stating that the applicants are casual workers and have no case to be absorbed in regular service or made permanent merely

T. Chaudhary

on the statement of long engagement. They have further stated that there is no vacancy left in Majdoor Cadre and therefore, in the absence of any regular post the question of regularizing the applicants on any Group 'D' post does not arise.

4. The applicants have filed their Rejoinder Affidavit stating more or less same things as earlier stated by them in their OA and also disputing the contention of the respondents that there is in vacancy left in the regular Majdoor Cadre in Raibareli in the impugned order dated 21.06.2010 (Annexure A-7) the respondents no.3 has stated that 12 vacancies are available in the Raibareli District.

5. We have heard the learned counsel for both the parties and perused the entire material available on record.

6. It is not denied by the respondents that a O.M. dated 07.05.2006 was issued in which permission for regularizing the services of the applicant No.1 and 2 were sent to Respondent No.3 by the Respondent No.2. IN compliance thereof by letter dated 17/19.05.2007, the applicants were sent for Medical Examination Report. At that time there was no anomaly regarding availability of the post as doubtless the letter dated 07.05.2006 would not have been issued in the absence of any valid post. The impugned order dated 21.06.2010 is an internal communication with the Respondent No.3 to Respondent No.2 pointing out certain discrepancies in the counting of posts certainly the number of posts may increase or

T.Chandre

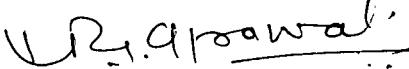
decrease in time. The letter dated 21.06.2010 has been written after passage of three long years. Even then it mention that there are 12 posts available. The relevant portion is quoted below:-

“जो खाली पद थे उन पर टी. एस. एन. से प्रोन्ति होकर आर. एम. में कार्यरत हैं। वर्तमान में 39 आर. एम. कार्यरत हैं। यदि 51 पद माना जाता है तो रायबरेली एस. एस. ए. में 12 रिक्त होते हैं।”

7. It is clear from the reference that the issue of regularization is still alive. It is expected that the respondents as model employers will show grater responsibility in prompt disposal of issues. In this particular case the regularization of the applicants seems to have been initiated at the level of Respondent No.2, who by his action raised expectations of the applicants. The Respondent No.3 has not been able to bring this expectation to a closure.

8. In view of the above, we are inclined to dispose of this OA with a direction to the Respondent Nos.2 and 3 to count the present status of availability of the posts and regularize the applicants in terms of the O.M. dated 07.05.2006. The above exercise shall be completed within a period of four months from the date of receipt of a certified copy of this order. No order as to costs.


(Ms. Jayati Chandra)
Member (A)


(Navneet Kumar)
Member (J)

Amit/-