

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 195 of 1992

Kanta Prasad . . . . . Applicant

Versus

Union of India & Others . . . . . Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A)

( By Hon'ble Mr. Justice U.C.Srivastava, VC)

The applicant it appears was appointed as Mali on casual basis, although no such post of Mali exists in the department and for that the applicant himself moved an application that he has come to know that a post of part time Mali is vacant and he may be appointed against the same. Consequently, he was appointed on payment of Rs. 200/- per month. It appears subsequently that the respondents started paying him Rs. 500/- and thereafter, Rs. 700/- may be his work were satisfactory. From the documents from the record, it appears that full time duty was taken from the applicant and the applicant's work was appreciated. Meaning thereby, he worked from 10 A.M. to 5 P.M.


2. The respondents have stated that there was no sanctioned post of Mali and as such, the payment was made to the applicant from the contingent fund. The fact only indicates that the applicant was appointed as a part time Mali and no regular pay<sup>scale</sup> was given to the applicant at any point of time and was not made a regular employee as such, but he continued work on daily wages later on which was paid to him on consolidated<sup>facts</sup>. The applicant continued to work as such and thereafter he was asked not to work. Merely because, the applicant has worked, is

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not established any right for being a regular employee. But as he continued work on the said post. Obviously, whenever the post of peon or Mali fell vacant,, the applicant has got <sup>claim</sup> prior and preferential to the said post. There appears to be no reasons that whenever a post of Peon-cum-Mali or Mali-cum-Peon is vacant, thus or even otherwise peon is vacant, the applicant will not be given priority. Even if now post is vacant on which work has been performed by the applicant, the applicant will be taken in preference to other person. It is the applicant who will be given priority and preference to other person in the matter of appointment. Merely, because, as he has approached the tribunal will be no ground for <sup>it</sup> not considering his case or not giving preference and priority over the major person. With these observation, the application is disposed of finally. No order as to cost.

  
Member (A)

  
Vice-Chairman

Lucknow : Dated: 17.12.1992

(RKA)