

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH JAIPUR.

O.A. NO. 368/1991 : Date of order: 24.8.1995

Vijay Singh Sisodia : Applicant

Vs.

1. The Union of India through the
Secretary, Ministry of Communication,
Department of Telecommunication,
Government of India, New Delhi.

2. The Chief General Manager, Telecom,
Rajasthan Circle, Jaipur.

3. The Divisional Engineer (Telecom)
Beawar.

: Respondents

Mr. Rajendra Prasad : For the applicant
Mr. V.S.Gurjar : For the respondents

CORAM:

HON'BLE MR. G.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE MR. RATTAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE MR. G.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the
Administrative Tribunal's Act, 1985 Shri Vijay Singh
Sisodia has prayed that the respondents may be directed
to regularise the applicant's services as Office
Assistant retrospectively considering his continuous
service as Hindi Typist since 1984 and they may also be
directed to provide the pay scale of Office Assistant
w.e.f. 1984 alongwith other admissible benefits.

2. The applicant's case is that he joined the Telecom
Department in 1975 at Beawar as Casual Labour. He was
appointed as Peon on regular basis on 2.7.1980 and was
promoted as Daftry in the year 1985. He knew Hindi
typing. The respondents assigned the work of Hindi

typing to him without passing any formal orders. No other Hindi-typist was available in the office of respondent No.3, the Divisional Engineer (Telecom) Beawar where the applicant was working. He was also nominated as member of the department 'Rajbhasha Karyanvay Samiti' as seen from the proceedings of the meeting held on 19.1.1984 (Annexure A-1). He was formally directed to take over the charge of Office Assistant on transfer of one Shri Gopal vide transfer order dated 19.4.1987 (Annexure A-2). Thus he was promoted as Office Assistant in 1984 by verbal orders and by written orders in 1987. However, he was neither paid remuneration equal to that payable to a Office Assistant, nor were any steps taken to regularise his services as Office Assistant, inspite of the fact that the post of Hindi Typist has been vacant since long. As per the scheme of regularisation laid down by the Department of Personnel and Training vide letter dated 16.7.1990, vacancies reserved for out-siders have to be filled up by recruitment from amongst such Casual Skilled/Semi-skilled workers available in the office. The applicant represented his grievance to the authorities six times during 1988, 1990 and 1991 but his representations have evoked no response. The Hon'ble Supreme Court has repeatedly deprecitated the practice of appointments as Stop-gap-adhoc-arrangement. The applicant has been working on the post of Office Assistant (Hindi Typist) since 1984 and till date no regularly selected candidate is available. Therefore, it is obligatory on part of the respondents to regularise the services of the

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applicant as Office Assistant. He is also entitled to ~~get~~ the salary of the post of Office Assistant on the principle of equal pay for equal work.

2. The respondents in their reply have denied that the applicant was required to perform the duties of Hindi Typist at any stage. The applicant knew Hindi typing and he wanted that his speed should be maintained and therefore he had requested the authorities that some papers may be got typed through him. Therefore once or twice in a month, on the request of the applicant himself, papers were given to him for typing. There is no post of Hindi Typist in the office and there is also no need of such a post because the work of Hindi is required to be performed very rarely. The applicant is a Group D employee but since he was the only person knowing Hindi-typing in the office, he was described as 'Hindi Tankan-Karta'. His job was that of the Daftari and Annexure A-2 relied upon by the applicant shows that the applicant was described as working as Daftari. They have denied that the applicant discharged the duties of Hindi-typist for the last eight years. Since he has been performing the duties of Group D employee, he is being paid the remuneration of a Group D employee.

4. During the arguments, learned counsel for the applicant drew our attention to numerous annexures placed on record and stated that all these have been typed by the applicant himself. He also drew our attention to the proceedings of the committee regarding propagation of Hindi wherein it was mentioned that

there is need for more than one Hindi Typist in the office. He therefore stated that there was work available involving Hindi typing and that since the applicant was admittedly the only person knowing Hindi typing in the office, the entire work relating to Hindi-typing was being assigned to him.

5. The applicant had also filed a rejoinder and the learned counsel for the applicant drew our attention to Annexure A-21 filed with the rejoinder which shows that the applicant had been attending the work of Receipt and Despatch letters from 1.4.1990 to 31.3.1991. This annexure shows that the applicant had been attending the work of Group C employee. He also relied upon the judgment of the Hon'ble Supreme Court in the case of State of Haryana and others vs. Fyare Singh and others, (1992)4 SCC 118 in support of the argument that in case of long continuance in service presumption for regular need of service will arise, obliging the authorities concerned to consider with a positive mind the feasibility of regularisation. Although this case is relating to regularisation of adhoc/temporary employees, but the learned counsel for the applicant stated that same principle would apply to regularisation of service of the applicant on the post of Office Assistant-cum-Hindi Typist as he had been discharging the duties of this post since 1984.

6. The learned counsel for the respondents stated that till date no post of Hindi Typist has been sanctioned in the office and there has been a very little work of Hindi typing actually. He added that the applicant might have occasionally typed some letters in Hindi but

that did not make his job as a whole time Hindi typist, nor was the applicant engaged on the work of Office Assistant on a whole time basis.

7. We have heard the learned counsel for the parties and have gone through the material on record and have also gone through the judgment cited by the learned counsel for the applicant. Undoubtedly the applicant appears to have done some work of Hindi-typing but the material placed on record by the applicant does not lead to the inference that the applicant was engaged as a whole time Hindi typist. His claim for regularisation on the post of Hindi Typist would rest only on the premise that he had been engaged on this work on a whole time basis by the respondents. Therefore, this claim cannot be accepted by us. However the respondents have not rebutted the contents of Annexure A-21 filed with the rejoinder by the applicant which shows that during 1990/1991 the applicant had been engaged on the work of Receipt & Despatch and thousands of letters were received and despatched by him. The work of 'receipt and despatch' is undoubtedly that of a Group C employee. Therefore at least for the year 1991 the applicant is entitled to the pay and allowances of a Group C employee on the principle of equal pay for equal work.

8. We have carefully considered the judgment of the Hon'ble Supreme Court in Pyare Singh's case and we are of the view that in the facts and circumstances

of the present case it has no applicability.

9. The respondents are directed to grant difference of pay and allowances of the minimum admissible to a Group C employee for the year 1990-91 within a period of three months from the date of receipt of copy of this order. We however make it clear that this does not amount to conferring the status of Group C employee on the applicant. O.A. stands disposed of accordingly with no order as to the costs.



(RATTAN BAPASH)
MEMBER (J)



(O.P. SHARMA)
MEMBER (A)