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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.460/93

Date of order: 19.9.1996

Kishan Lal : Applicant

Vs.

Union of India & Ors. : Respondents

Mr.Surendra Singh : Counsel for applicant

Mr.K.N.Shrimal : Counsel for respondents

CORAM:

Hon'ble Mr.O.P.Sharma, Administrative Member

Hon'ble Mr.Ratan Prakash, Judicial Member

PER HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Section 19 of the Administrative Tribunals Act, 1985, Shri Kishan Lal has sought a declaration that he is entitled to regular scale of pay Rs.750-940 plus other allowances as admissible under the rules by regularising him in Group-D post as Safai Karmachari, w.e.f. the date of his initial appointment as a daily rated employee. He has sought a further direction to the respondents regarding implementation of the orders dated 3.2.92 (Annx.AI) 25.3.92 (Annx.AII) and 10.9.92 (Annx.AIIA) with payment of arrears alongwith interest at the rate of 18% per annum.

2. The case of the applicant is that he was appointed as Safai Karamchari in the office of the Sub Divisional Officer (Telecommunication) Telegraphs, Tonk, respondent No.3, in January 1987. From February 1987 to February 1988, he had worked for a total of 353 days (Annx.A-IV dated 4.10.90). The applicant used to work for about 5 hours a day but he was treated as a part-time worker. The Distt.Telecommunication Engineer (Telegraphs), Sawaimadhopur, vide order dated 3.2.92 (Annx.AI) directed payment of salary at the rate of Rs.1200/- per month to the applicant w.e.f. 1.11.91. This order was however not implemented. Vide order dated 10.9.92 (Annx.IIA) the Sub Divisional Officer (Telegraphs), Tonk, ordered the

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J.T.O, Tonk to make payment to the applicant at the rate of Rs.1200/- per month as per the order dated 3.2.92 issued earlier and take 8 hours daily duty from the applicant. Still however payment at the rate of Rs.1200/- per month was not made to him. The applicant's case is that he is entitled to regularisation on Group-D post which he is holding now and is also entitled to regular scale of pay on the principle of equal pay for equal work. Specifically, he is entitled to the scale of pay Rs.750-940, which is the scale of pay of Safai Karamchari.

2. The respondents in the reply have stated that the applicant was appointed as a temporary casual labour and 2 hours work was taken from him and after some time 4 hours work was taken from him. He was not a full time Safai Karamchari. Therefore the claim that he has worked 329 days between February 87 and February 88 is not sustainable under law. The amount of Rs.1200/- was not to be paid to the applicant alone but this was the total amount to be spent on sweeping and cleaning of two offices of the department in Tonk. In this connection reference has been drawn to Annx.R1, annexed to the reply of the respondents. Since the applicant had not worked for 8 hours per day, he was not paid Rs.1200/- per month. They have denied that he is entitled to regularisation as alleged by the applicant, because he is only a part-time worker.

3. The applicant has also filed a rejoinder which is on record.

4. We have heard the learned counsel for the parties and have gone through the material on record.

5. At one stage the applicant has himself stated in the O.A that he worked for 5 hours per day. The respondents have stated that initially the applicant worked for 2 hours per day but subsequently he has been working 4 hours per day. Normally

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duty hours of a government servant are about 8 hours per day and if the applicant has worked for about 4 to 5 hours per day in sweeping and cleaning the office, he would not be entitled to full pay and allowances of a regularly appointed Group-D Safai Karamchari. No doubt, the principle of equal pay for equal work should be applicable but that would be applicable where the official is a whole time employee. In the circumstances of the present case when the applicant has been performing duties for roughly one-half of the duty hours of a regular employee, in our view he would be entitled to 50% of the pay plus other admissible allowances calculated on the basis of the minimum of the scale of Rs.750-940, which is available to a regularly appointed Group-D Safai Karamchari. The respondents are, accordingly directed to make payment of 50% of pay and allowances payable to a regular Safai Karamchari in Group-D, by calculating these at the minimum of the scale of pay. This payment shall be made to the applicant from the date he filed this O.A, namely 27.7.1993. The arrears shall be paid to the applicant within a period of 4 months from the date of receipt of a copy of this order by the respondents. Naturally only the difference of arrears of pay would be payable after deducting the amount already paid to the applicant from the amount payable to be worked out as above. As regards the applicant's prayer for regularisation, it shall be considered by the respondents in accordance with the prevailing rules and regulations. The O.A stands disposed of accordingly with no order as to costs.



(Ratan Prakash)

Judicial Member



(O.P.Sharma)

Administrative Member.