

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.227/97

Date of order: 27/6/2000

Kamlesh Kumar Saini, S/o Sh.Bhag Chand Saini, R/o Dhani Karigaron, Plot No.76, Phulera, Post Phulera, Distt.Jaipur.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt, Deptt. of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Senior Superintendent, Railway Mail Service, 'JP' Dn, Jaipur.
4. Sub Record Officer, RMS, 'JP' Division, Phulera.
5. Head Record Office, RMS, JP Division, Jaipur-I.

...Respondents.

Mr.P.N.Jati - Counsel for applicant

Mr.M.Rafiq ) - Counsel for respondents.

Mr.Hemant Gupta)

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer:

(i) to quash and set aside the order dated 30/31.12.96 and to direct the respondents to pay the wages to the applicant for the work done at the rate of 8 hours per day w.e.f. 20.7.95 till the decision of the O.A;

(ii) to direct the respondents to engage the applicant continuously for 8 hours per day.

2. Vide the impugned order dated 30/31.12.96, the respondents denied salary to the applicant for 308 days w.e.f. 20.7.95 to 31.5.96 @ Rs.60/- and only allowed salary @ Rs.35/- per day.

3. The applicant was initially engaged by the respondents' department to work as unapproved candidate for 8 hours a day and he worked till 31.5.96 in the Rest House, Phulera as Rest House Attendant. It is stated that the applicant performed the duties satisfactorily as described in para 5(ii) to 5(xv) of the O.A regularly for 16 hours per day. But the respondents did not make the payment of Rs.60/- per day or Rs.750/- plus D.A per month. The applicant made representation but with no result. It is stated that the applicant also filed money receipt duly verified for payment of his wages w.e.f. 20.7.95 to 31.5.96 (Annx.A5 to Annx.A12). It is further stated that the respondents disengaged the applicant arbitrarily and also not paying the wages due to the applicant in spite of his repeated representations is contrary to the rules. He,

therefore, filed the O.A for the relief as stated above.

4. Reply was filed. In the reply, it is stated that the applicant was engaged to work on part-time basis in Rest House Phulera as Rest House Attendant w.e.f. 20.7.95. It is stated that in the Rest House only 3 officials were taking rest whereas according to the letter dated 30.5.64, 8 hours work of an Attendant is justified for 5 officials. Therefore, according to the above rule, 5 hours duty for the Attendant was justified and the applicant was allowed to pay @ 5 hours per day. It is also stated that the applicant was not a sponsored candidate by the Employment Exchange but was simply engaged @ Rs.35/- per day by the then Inspector of RMS, Jaipur-III, Sub Division Bandikui. The claim of Rs.11,137/- was passed but the applicant refused to accept the payment. It is also stated that the applicant worked in the Rest House Phulera only for 5 hours per day and he was not entitled to the payment of 8 hours a day. It is also stated that the applicant was a part-time casual worker, therefore, he is not entitled to be conferred temporary status and regularisation on Group-D post.

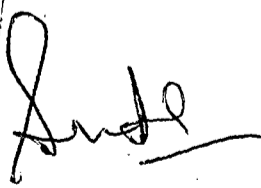
5. Rejoinder has also filed reiterating the facts stated in the O.A which is on record.

6. Heard the learned counsel for the parties and also perused the whole record.

7. It is not disputed that the applicant was engaged to work in Rest House Phulera on 20.7.95 and he worked till 31.5.96. No order of appointment alleged to have been issued. No other official record was produced by the respondents to corroborate the fact that the applicant was engaged only for 5 hours a day to work in the Rest House, Phulera. On the other hand, the applicant has produced the money receipt Annx.A5 to Annx.A12 approved by the Sub Record Officer, RMS, Jaipur for which the respondents have stated that these money receipts are verified by respondent No.4 who was not competent to verify. No affidavit of respondent No.4 was filed so as to explain the true and correct position.

8. In view of above and looking to the details of work given by the applicant and also the approved money receipts Annx.A5 to Annx.A12, I am of the opinion that the allegation of the applicant that he worked for 8 hours or more per day does not seem to be incorrect and the applicant is entitled to wages for the period from 20.7.95 to 31.5.96 @ Rs.60/- per day on the basis of 8 hours per day work done.

9. As regards the prayer of the applicant for conferring temporary status and regularisation, there is no specific prayer in the O.A regarding conferring of temporary status and regularisation



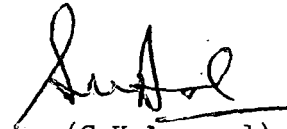
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The main prayer in the O.A is to pay the applicant wages @ Rs.60/- per day on the basis of his 8 hours work done and direction to engage him continuously for 8 hours per day.

10. In view of the foregoing, the O.A is allowed and the respondents are directed to pay the applicant wages @ Rs.60/- per day w.e.f. 20.7.95 to 31.5.96 for the work done and to give the weightage of his experience while engaging Attendant in the Rest House, Phulera, as and when it is required to engage the Rest House Attendant.

11. No order as to costs.

  
(S.K. Agarwal)  
Member (J).