

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.132/98

Date of order: 8/9/2000

Bhonri Lal Seni, S/o Sh.Bhagirath Seni, R/o 22 Godown, Jaipur,
presently working as Waterman in Gandhi Nagar Head Post Office.

...Applicant.

Vs.

1. Union of India through the Secretary, Deptt. of Posts Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Senior Superintendent, Jaipur City Division, Jaipur.
4. Post Master, Gandhi Nagar Head Post Office, Jaipur.

...Respondents.

Mr.P.N.Jati - Counsel for applicant.

Mr.K.N.Shrimal - Counsel for respondents.

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, 19085, the applicant makes a prayer to direct the respondents to pay the applicant wages @ Rs.750/- plus other allowances per month w.e.f. 23.2.94 to 12.4.97 alongwith interest and confer temporary status to the applicant w.e.f. 24.2.94 as the applicant has completed 240 days of service in a year as casual labourer.

2. Facts of the case as stated by the applicant are that he was working as Waterman in Gandhi Nagar Head Post Office since 17.4.81 as part time casual labour. He was ordered to work for 8 hours per day as per order dated 23.2.94 but payment for 8 hours per day was not made to him. He made an application to the Sr.Superintendent Jaipur City Division, Jaipur on 15.8.94 and another was given to the Union Secretary for solution of the problem thereupon respondent No.3 issued a letter to respondent No.4 for knowing the factual position and on perusal of the factual position it appears that the applicant was assigned 8 hours duty

per day on 23.2.94 but the payment was not made accordingly to the applicant and no action was taken to his representation dated 20.8.97 regarding the payment. Therefore, the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that Post Master Gandhi Nagar has not issued any order on 3.2.94 to work for 8 hours daily. The Post Master, Gandhi Nagar had only directed the applicant on 23.2.94 to work for 5 hours between 8.00 Hrs. to 16.00 Hrs, during which the staff is present in the office which is evident from Annx.R4. It is also stated that the applicant was paid wages @ 5 hours per day as ordered by the Post Master, Gandhi Nagar. It is further stated that the Post Master Gandhi Nagar is not competent to enhance the working hours or allowance of the applicant and such revision can only be sanctioned by respondent No.3 who had neither vetted the order nor issued any other order in this regard. Therefore, the claim of the applicant is not sustainable. It is also stated that Fulltime Waterman is justified only where in those post offices where sanctioned staff strength is 100 officials, as per Directorate letter dated 7.2.81. The sanctioned staff strength of Gandhi Nagar Post Office is 80, hence the claim of the applicant is also not tenable on this ground and this O.A is devoid of any merit liable to be dismissed.

4. Rejoinder to the reply has also been filed reiterating the facts stated in the O.A which is on record.

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

6. The learned counsel for the applicant has argued that the applicant did the work as Waterman for the period of 8 hours daily but he has been paid only @ 5 hours per day. He has referred the letter Annx.R4 and report of Post Master, Gandhi Nagar dated 26.8.95 (Annx.A2).

The order Annx.R4 is reproduced below:

श्री भौरी लाल वाटरमैन आपको आदेश है कि आप सुबह 8.00 आठ बजे से सायं 4.00 चार बजे जब तक स्टाफ कार्यरत है पानी भरें एवं पानी पीलाने का पांच घंटे काम करेंगे अगर आप इससे पहले कार्यालय छोड़कर चले गये तो
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 आपकी अनुपस्थिति की जावेगी एवं अनुशासनिक कार्यवाही एवं आपको इस पद से हटाया भी जा सकता है ।

7. In the order Annx.R4, it is abundantly clear that the applicant was asked to work from 8.00 AM to 4.00 PM, although 5 hours has also been added but it appears to have been added later on which does not make the position very clear why this period of 5 hours has been added that has not been properly explained.

8. Annexure A-2 is also a letter written by Post Master, Gandhi Nagar on 26.8.95, in this letter the Post Master, Gandhi Nagar has clearly stated that in the order 5 hours appears to have been added later on. The language used by the Post Master in his letter dated 26.8.95 is reproduced below:

आईस में प्रातः आठ बजे से सायंकाल चार बजे के सायं
पांच घण्टे लिखाना बाद के प्रतीत होता है जिसका
सत्यापन आप उचित समझे तो करवा सकते हैं।

9. On perusal of these documentary evidence and the averments made by the applicant in the O.A and representation filed by the applicant from time to time it appears that the applicant has worked as Waterman in respondents' department from 8.00 AM to 4.00 PM but he was paid at the rate of 5 hours per day. Therefore, the applicant is entitled to the payment @ 8 hours per day w.e.f. 23.2.94 to 12.4.97.

10. The learned counsel for the respondents during the course of his argument has stated that this O.A is barred by limitation. But I am not convinced with the arguments of the learned counsel for the respondents as pay and allowances are recurring cause, therefore, this O.A, according to my considered view, is not barred by limitation.

11. The learned counsel for the respondents has also argued that the applicant is a casual labour and has no locus standi to file an O.A before this Tribunal, therefore, this O.A is not maintainable in view of the provisions contained under Sec.14(1) of the Administrative Tribunals

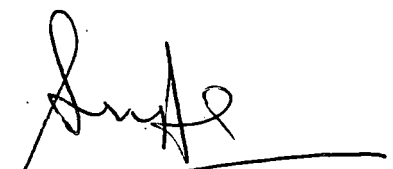
Act, 1985. I have heard the learned counsel for the applicant and also perused the whole record. The counsel for the applicant submits that the applicant is an aspirant on getting government job on regular basis, therefore he submits that in catena of judgments it has been held that this Tribunal is having jurisdiction to entertain the cases pertaining to casual labourer. I am in agreement with the contention of the learned counsel for the applicant and hold that in view of the facts and circumstances of this case and settled legal position this Tribunal is having jurisdiction to entertain this O.A.

12. The learned counsel for the respondents have also argued that the respondents' department is an Industry and therefore, the applicant should approach the Industrial Tribunal and this Tribunal having no jurisdiction. But I am not inclined to accept the contention of the learned counsel for the applicant as the case in hand pertains to the Postal Department.

13. In view of the discussions as above, this application deserves to be accepted.

14. I, therefore, allow the O.A and direct the respondents to make payment to the applicant at the rate of 8 hours per day w.e.f. 23.2.1994 to 12.4.1997, after adjusting the payment already made to the applicant, within a period of two months from the date of receipt of a copy of this order.

15. No order as to costs.



(S.K. Agarwal)

Member (J).