

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No. 381/2005.

Jaipur, this the 23rd day of May, 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

Gopal Das
S/o Shri Phool Chand Nakal
Aged about 32 years,
R/o Plot No.6, Heeda Ki Mori,
Gandhi Circle, Harizen Basti,
Jaipur.

... Applicant.

By Advocate : Shri P. N. Balwa proxy counsel for
Shri M. B. Sharma.

Vs.

1. Union of India through
Secretary to the Govt. of India,
Ministry of Communication and Information Technology
Department of Posts, Government of India,
Dak Bhawan Sansad marg,
New Delhi.
2. The Chief Post Master General,
Rajasthan Circle, Jaipur.
3. Additional Supdt. Dak Ghar
Station Road,
Jaipur.
4. Sub Post Master,
HSG-II, Tripolia Bazar,
Jaipur.

... Respondents.

By Advocate : Shri Gaurav Jain.

: O R D E R :

Per M. L. Chauhan.

The applicant has filed this OA thereby praying that the direction may be given to the respondents to grant the status of full time casual labour to the applicant on the post of Sweeper or any other equivalent post by way

of regularizing the services of the applicant and the respondents be further directed to pay regular salary of the full time casual labour to the applicant.

2. Briefly stated, the facts of the case are that the applicant was initially appointed on Contingent basis as part time Casual Labour on 2.2.98. Since the service of the applicant was not regularized, he filed OA in this Tribunal which was registered as OA No.74/2004 whereby the applicant has prayed that he be confirmed the semi permanent/permanent status on the post of Sweeper or any other equivalent post by way of regularizing the services of the applicant and the respondents may be directed to pay regular salary to the applicant. In that OA the applicant has pleaded that though he was engaged for five hours, but in fact he was discharging regular duties for more than 5 hours in a day, thus, he was entitled for regularization against Group-D post. The claim was opposed by the respondents on the ground that the applicant was not working for more than 5 hours. When the matter was taken up for hearing, Learned Counsel for the applicant argued that he is not pressing his claim for regularization of the services of the applicant against Group-D post and presently he is confining this OA for the purpose of consideration of his case in the light of Instructions dated 16.09.92 from DG, Posts (SPN) New Delhi, Annexure A/7, which stipulates that if part time casual labourers are working for 5 hours or more, it

may be examined whether they can be made full time by readjustment or combination of duties. On the basis of aforesaid submission made by the Learned Counsel for the applicant that this case has not been considered in the light of aforesaid instructions , the direction was given to the respondents vide order dated 19.04.2005 to consider the representation of the applicant in the light of instruction dated 16.09.1992 and pass appropriate speaking order. Consequently, the representation was made by the applicant and the respondents have rejected the same vide impugned order dated 23.6.2005 (Annexure A/1). It is this order which is under challenge in this OA.

3. In sum and substance the grievance of the applicant is that the post of Sweeper is a post of permanent nature and the work which is being discharged by the applicant is still existing in the post office of Tripolia Bazar and other post office at Jaipur warranting readjustment or combination of duties. But the mandate given in the circular dated 19.6.1992 has been ignored by the applicant which has occasioned failure of justice and serious prejudice to the applicant. It is on these basis that the applicant has filed this OA thereby praying for the aforesaid relief.

4. The respondents have filed reply in which they have stated that the case of the applicant was examined in the

light of relevant records, instruction/directions and rules and regulations. According to Director General, Department of Posts, New Delhi, letter No.45-14/92-SPB-1 dated 16.9.92, the part time Casual Labourers working for five hours or more are to be examined whether they can be made full time by readjustment or combination of duties. In this order it has also been stated that there should be no engagement of fresh casual labourers. Accordingly, the case of the applicant was examined in the light of Director General, Department of Posts, New Delhi letter dated 16.9.92, but could not be found suitable for consideration as there was no other post according to his educational qualification which was available at Tripolia Bazar, Post Office, Jaipur whose duties can be clubbed with the duties of the applicant to enable him for grant of Full Time Casual Labour. It is further stated that the case of the applicant was also examined in the light of Director General, Department of Posts, letter dated 30.11.98 whereby it has been said to consider the feasibility of deploying a part time casual labour in split duty as per existing orders on the subject to form a full time casual labour position. Part time casual labourers who were engaged up to 01.09.93 will only be considered under the scheme and after careful examination of the applicant's case in view of the above order, the applicant was also not found fit as he does not possess the minimum educational qualification of 8th pass against the minimum education qualification for the ED, the work

of which is to be clubbed with the applicant's work, is 8th pass and the applicant is 8th failed. Thus, according to the respondents the applicant could not be found eligible for full time casual labour. Hence his representation was rightly rejected.

5. The applicant has filed rejoinder. In the rejoinder, the applicant has stated that presently two posts of Sweeper are available at General Post Office and one post is available at Post Office, Tilak Nagar, Jaipur and the applicant by way of readjustment or combination of duties can be easily posted at above places.

6. The respondents have filed additional affidavit in which it has been stated that there is no post of Safai Mazdoor in Tripolia Bazar, Post Office, Jaipur. However, a post of Sweeper is lying vacant at Jaipur GPO.

7. I have heard the Learned Counsel for the parties and gone through the material placed on record. From the material placed on record and instructions issued by the Director General, Department of Posts from time to time, more particularly the instruction dated 30.11.98 the thrust of the department is that endeavour should be made to make part time casual worker who has been engaged up to 1.9.93 as full time casual labour and for that purpose, readjustment or combination of duties of another post including the post of vacant EDA can be

resorted/clubbed with the duties being performed by the part time casual labour. Admittedly, the applicant was engaged as part time casual labour before 1.9.93 i.e. in the year 1988. It is also not in dispute that the applicant is working in that capacity for the last about 18 years. Though the case of the applicant to make him full time casual labour by readjustment or combination of duties was considered by the respondents in respect of ED post available at Tripolia Bazar Post Office where the applicant was working, yet he could not be granted the benefit of full time casual labour as the applicant did not fulfill the requisite qualification of having passed 8th standard as the minimum education qualification for the ED post. Thus, no infirmity can be found in the impugned order passed by the respondents. However, the grievance of the applicant is that such consideration should not have been confined in respect of the unit where the applicant was working but the respondents should have explore the feasibility of readjustment or combination of duties of the post of the applicant with respect to the post lying vacant in another unit such as GPO Jaipur where the post of Sweeper is lying vacant.

8. I have given due consideration to the submission made by the Learned Counsel for the parties. From the various letter issued by the Director General, Department of Posts, it is clear that the endeavour should be made to deploy part time casual labour as engaged up to 1.9.93

to make them full time casual labour and for that purpose, if need be, duties of ED post can be clubbed along with the post which the casual labourer is performing. Further from the letter dated 16.9.92, it is also clear that there should be no engagement of fresh casual labourers in future. Thus from the combined reading of letter dated 16.9.92 and 30.11.98 it is clear *that* the intention of the respondents was to treat all the part time casual labour up to 1.9.93 as full time casual labour by readjustment or combination of duties and to ban future engagement of fresh Casual Labourers. Further from the perusal of the letter dated 16.9.92 as also from the letter dated 30.11.98 on which reliance has been placed by the respondents, it is nowhere specifically stated that such consideration should be confined to unit concerned.

9. Thus, in view of such policy decision as reflected in the letters of DG, Department of Posts and keeping in view the facts and circumstances of this case that the applicant is working as part time sweeper for last about 18 years and the nature of work being performed by the applicant is still existing in post office, Tripolia Bazar, I am of the view that it will be in the interest of justice if the respondents may consider readjustment or combination of duties of the similar nature in respect of contingent work available in other units and such consideration should not be confined to unit basis. For

that purpose, the consideration may not be confined to the applicant only as there may be a few other cases of such nature where part time casual labour could not have been made full time casual labour because of non availability of contingent work in the unit in which such persons are working on account of non fulfillment of minimum qualification meant for ED post(s). Accordingly, the respondents are directed to review the matter afresh within a period of 3 months from the date of receipt of a copy of this order and take decision whether such part time casual labourers who were engaged prior to 1.9.93 and is working with the department for about 13 years or more can be conferred the status of full time casual labour by readjustment or combination of duties, not only on unit basis but on division basis, if need be, by granting one time relaxation. The applicant shall be informed about the result of such review decision.

10. With these observations, the OA is disposed of with no order as to costs.



(M. L. CHAUHAN)

JUDICIAL MEMBER

P.C./