

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 31st day of May, 2006

ORIGINAL APPLICATION NO. 477/2005

CORAM :

HON'BLE MR.V.K.MAJOTRA, VICE CHAIRMAN
HON'BLE MR.M.L.CHAUHAN, MEMBER (J)

Mangla Ram,
Temporary Group-D in the O/o
Senior Postmaster, General Post Office,
Jaipur.

By Advocate : Shri P.N.Jatti

... Applicant

Versus

1. Union of India
Through Secretary,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi.
2. Chief Postmaster General,
Rajasthan Circle,
Jaipur.
3. Senior Superintendent of Post Offices,
Jaipur City Dn.
Jaipur.
4. Senior Postmaster,
Jaipur General Post Office,
Jaipur.

By Advocate : Shri T.P.Sharma

... Respondents

ORDER

PER HON'BLE MR.V.K.MAJOTRA

Applicant, Mangla Ram, was engaged as casual labour on 2.2.86 in the office of Chief Postmaster General, Rajasthan Circle, Jaipur. He had filed quite a few OAs in respect of his service disputes, the last being OA 328/2004, which was allowed in part vide order dated 11.4.2005 with direction to



respondents to treat the applicant as temporary status holder w.e.f. 29.11.89 and allow him all consequential benefits on notional basis and the actual arrears payable for the period of three years prior to filing of the OA. In pursuance of these orders, respondents were to pay arrears to the applicant for the period 16.8.2001 - 15.8.2004 (three years). However, on the ground that the applicant had actually not worked during the period 16.8.2001 to 22.1.2003 and had joined duties on 23.1.2003, paid arrears to him from 24.1.2003 to 30.4.2005 amounting to Rs.44063/- . He has also been granted temporary status w.e.f. 29.11.89.

2. Through the present OA, applicant has challenged Ann.A/1 dated 10.8.2005, whereby he has been denied payment of any further arrears and also Ann.A/2 dated 10.8.2005, whereby regularisation of the applicant on a Group-D post has been declined.

3. Learned counsel for the applicant contended that applicant is entitled to payment of arrears for three years prior to the date of filing of the OA (No.328/2004) i.e. 16.8.2004. He stated that the period of three years should comprise total period of three years whenever the applicant had worked prior to 16.8.2004. According to him, this period should be reckoned as follows :

"16.8.2003 - 23.1.2003 = 7 months and 7 days.

10.9.1997 - 10.9.1996 = one year

10.9.1996 - 8.5.1996"

Learned counsel further stated that applicant ought to have been regularised in a Group-D post in terms of Ann.A/8 i.e. DOP letter dated 12.4.91 regarding Casual Labourers (Grant of Temporary Status and

Regularisation) Scheme in Department of Posts. He particularly relied upon para-17 of the scheme, which reads as follows :

"17. No recruitment from open market for Group 'D' posts except compassionate appointments will be done till casual labourers with the requisite qualification are available to fill up the posts in question."

Learned counsel stated that direct recruitment on the post of Group-D barring compassionate appointments could not be resorted to till casual labourers with requisite qualifications were available to fill up the post in question. Learned counsel took exception to Ann.A/6 dated 6.7.2005, which is an advertisement issued on behalf of the respondents on 6.7.2005 for filling up two posts in Group-D (Orderly/Office Peon) in pay scale Rs.2550-55-2660-60-3200. Thus, the learned counsel maintained that not only that applicant should be granted arrears of pay for a period of three years prior to 16.8.2004 even if that period of service was in different spells, he is also entitled to regularisation in a Group-D post immediately in terms of Ann.A/8.

4. On the other hand, learned counsel for the respondents pointed out that applicant had joined his duties w.e.f. 23.1.2003 and as such in terms of Tribunal's direction contained in order dated 16.8.2004, passed in OA 328/2004, he was entitled to arrears for the period from 24.1.2003 to 30.4.2005 which amounted to Rs.44063/-, which has been paid to the applicant. He was not entitled to any arrears from 16.8.2001 to 22.1.2003 i.e. for the period when he had actually not worked.



5. As regards regularisation on a Group-D post, learned counsel submitted that vide DG, Department of Posts, New Delhi, letter No.37-15/2001-SPB-I dated 31.1.2002, earlier instructions dated 12.4.91, which have been relied upon by the applicant, were modified to the effect that 75% vacancies of Group-D are to be filled-in on seniority basis from the eligible Gramin Dak Sewak and remaining 25% are to be filled in from the casual labourers who have been conferred temporary status/full time casual labourers. Learned counsel stated that applicant's candidature for regularisation against a Group-D post would be considered only against 25% posts to be filled in from the casual labourers who have been conferred temporary status/full time casual labourers in order of seniority.

6. We have considered respective contentions of the parties as also material on record.

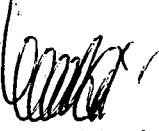
7. As regards payment of arrears for three years period prior to filing of OA 328/2004, learned counsel had contended that period of three years should be calculated backwards from 16.8.2004 even if it was in different spells and not continuous. This contention does not cut any ice with us. Three years period for the purpose has to be continuous prior to 16.8.2004. As the applicant has not produced any proof for having worked from 16.8.2001 to 22.1.2003, his claim for arrears of pay for that period is not established. Thus, in our view, whatever arrears of pay have been paid to the applicant, they are considered in order. He is not entitled to any further arrears of pay.

8. As regards applicant's claim for regularisation, he has relied on Ann.A/8 dated

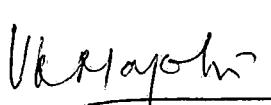
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12.4.99, which stipulates that Group-D posts excepting compassionate appointments should not be filled up from the open market till casual labourers with requisite qualifications are available to fill up the posts in question. We find force in the contention. Although it has been stated on behalf of the respondents that these instructions have been amended, no such proof has been furnished to us. As such, it is held that DOP instructions dated 12.4.91 are in force and respondents could not have issued Ann.A/6 dated 6.7.2005 for filling up two posts. Thus, Ann.A/6 dated 6.7.2005 is quashed to the extent that only one post may be filled by direct recruitment as per the advertisement and on the second post applicant's candidature be considered immediately in terms of Ann.A/8. Applicant's services in Group-D should be regularised if he fulfils prescribed qualifications granting relaxation in age limit to the extent of total period of work of applicant. Furthermore, as the applicant had been accorded temporary status w.e.f. 29.11.89 and DOP instructions for regularisation had been issued on 12.4.91 on being found qualified, applicant shall be accorded regularisation on Group-D post notionally from 12.4.91 when the aforesaid scheme was put into effect, but actual benefits shall be accorded to the applicant from 18 months prior to 18.10.2005 i.e. the date of filing of the present OA.

9. The OA is partly allowed in the above terms.


(M.L. CHAUHAN)
MEMBER (J)

vk


(V.K. MAJOTRA)
VICE CHAIRMAN

31.5.06