

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.44/2005 with MA No.153/2005.

Jaipur, this the 19th day of May, 2005.

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

Smt. Kanta Devi Sarwan
W/o Shri Hari Singh Sarwan,
Aged about 35 years,
R/o Jawahar Colony, Ramgarh Road,
Mahuwa (Dausa)

... Applicant.

By Advocate : Shri C. B. Sharma.

Vs.

1. Union of India
Through Secretary to the Government of India,
Department of Telecommunication,
Ministry of Communication and Technology,
Sanchar Bhawan,
New Delhi 110 001.
2. Principal Chief General Manager (BSNL)
Rajasthan Telecom Circle,
Jaipur 302 008.
3. Telecom District Manager (BSNL)
District Dausa.
4. Sub-Divisional Officer,
Telecom (BSNL), Mahuwa
District Dausa.

... Respondents.

By Advocate : None is present for Respondent No.1
Shri B. K. Sharam for Respondent No.2 to 4.

: O R D E R :

M. L. Chauhan, Judicial Member.

The applicant has filed this OA thereby praying for
the following reliefs :-

"1. That the entire record relating to the case be called for from the respondents and after perusing the respondents maybe directed not to disengage the applicant from the present post.

2. That the respondents be further directed to consider for enhancement of pay and allowances and also for regularization of services taking into consideration of work is being assigned to the applicant with all consequential benefits.

3. Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

4. That the cost of this application may be awarded."

2. Briefly stated, the facts of the case are that the applicant was appointed as Safaiwala in the month of August 2000 for sweeping and cleaning of office of Sub-Divisional Office Telecom (Telegraph) Mahuwa District Dausa and allowed allowances. It is stated that since then the applicant is continuously working with the respondents without any complaint. It is further stated that the applicant is being allowed allowances for the work of sweeping and cleaning as Rs.1000/- per month since 2002. Since the applicant was continuously working for more than 4 years with the respondents, the matter for her regularization of service was taken up with the ^{by local M.L.A} Communication Minister vide letter Annexure A/1. In response to the said letter written to the Communication Minister, Respondent No.4 furnished the information to Respondent No.2 i.e. Principal Chief General Manager (BSNL) thereby indicating that the applicant is not a regular employee and there is no written order issued by ^{the} Sub Divisional Officer, DOT, regarding her

appointment as such. It is further stated that the applicant has not been engaged either in part time/daily wages basis as Casual labour, However, occasionally whenever the work is taken from her, a fix amount has been paid to her against receipt in prescribed proforma of A.C.G-17. The applicant has also placed on record another letter dated 23.8.04 (Annexure A/3) written by the Local MLA to the Minister for Communication and Technology thereby indicating that she be engaged as regular employee (part time/casual daily wagger or permanent) and her wages may also be increased as the Sub Divisional Office, Telecom, Mahuwa, requires full time employee. These are the only document which has been annexed by the applicant, in order to, justify her claim. The applicant has not placed on record any written document to justify that she was appointed as Contingent paid Safaiwala in August 2000 and is working since then and she is being paid fixed amount per month which was enhanced to Rs.1000/- in the year 2002.

3. Notice of this application was given to the respondents. Reply has been filed on behalf of Respondent No.2 to 4 i.e. BSNL authorities. By way of preliminary objection, it has been stated that the present application is not maintainable against the officers of the BSNL as BSNL is a corporation which is not amenable to the jurisdiction of Hon'ble Tribunal in view of the fact that no notification as contemplated

under Section 14(2) of the Administrative Tribunals Act, 1985 has been issued by the Central Government, so as to, bring the BSNL with the jurisdiction of the Hon'ble Tribunal.

4. On merit, the stand taken by the respondents as can be seen from Para 5 of the reply is to the effect that there is no post of Safaiwala in the office of the Sub Divisional Officer Telegraph, Mahuwa, District Dausa, as such, the applicant has never been engaged against any such post. It is further submitted that the applicant had occasionally been asked to do the job of cleaning against lump sum amount for certain weeks. She had never been asked to perform the work on any regular basis. Occasionally whenever the work was taken for fixed amount payment had been made to her against receipt in the prescribed proforma of A.C.G-17. The applicant had never been allowed any allowances for the work of sweeping and cleaning. The statement made by her that she had been allowed allowances for the said work, as Rs.1000/- per month is not true and correct. It is submitted that during the whole year of 2003 the applicant had been asked to do the sweeping and cleaning only for seven weeks and was paid for the said work at the rate of Rs.500/- per week. The said work was done by the applicant in the months of October and December 2003. In the year 2004 the applicant had been asked to do the sweeping and cleaning work for two weeks in the months of

January 2004, for two weeks in the month of February 2004, for one week in the month of April 2004 and for four weeks in the month of December 2004. She had been paid the fixed amount of Rs.500/- per week for the said period and the payment had been made by issuing a receipt in A.C.G-17. By a work order dated 29.12.2004, the sweeping and cleaning work has been given on contract. A copy of the order dated 29.12.2004 is submitted herewith and marked as Annexure-2 to 4/1. The area for which the contract has been given is mentioned in the document dated 27.7.2004, which is being submitted herewith as Annexure R-2 to 4/2 which included the area Mahuwa also. The above details clearly show that neither the applicant had ever been engaged on any post of Safaiwala nor she has been continuously working as averred by her nor she has ever been allowed any pay or allowances as claimed by her."

5. I have heard the Learned Counsel for the parties and gone through the material placed on record.

6. Admittedly, the applicant has not placed any letter or order on record to justify that she was engaged either on part time basis or regular basis as Daily Wage worker by the respondents. Even from the perusal of the letter dated 23.8.04 (Annexure A/3), it is clear that the applicant is working in the office of Respondent No.4 since 2000 and she was being paid Rs.100/- and thereafter Rs.150/- and presently Rs.1000/- in lieu of work of

Safaiwala, which is being extracted from her. It is also clear from the perusal of this letter that the applicant was not being engaged regularly that's why the local MLA has written a letter to the concerned Minister to regularize the service of the applicant in the capacity of part time/daily wages or permanent basis and also to enhance the wages of the applicant to make at par with full time casual worker.

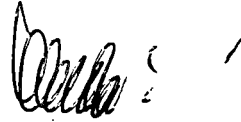
7. Thus, from the facts as stated above, it is established that the applicant was neither engaged on part time basis nor on full time basis as Casual Labour for carrying out the work of cleaning in the office of Respondent No.4. From the material placed on record, it is clear that the applicant was engaged occasionally to do the job of cleaning against the Lump sum amount for certain week and for that purpose she was being paid a sum of Rs.100/-, Rs. 150/- and presently Rs.500/- per week and it is also clear from the reply submitted by the respondents that the said payment has been made by issuing a receipt in A.C.G-17. It has been further stated that w.e.f. 29.12.04 the sweeping and cleaning work has been given on contact basis. Thus, according to the respondents her service cannot be regularized.

8. The applicant has also filed MA thereby praying that direction be given to the respondents to release the pay and allowances from January 2005 till date. This MA was

registered as MA No.153/2005. Reply to this MA was also filed by the respondents thereby taking the stand as already stated above and it has been categorically stated that the applicant has never worked for the answering respondents during the month of January, February and March 2005 and even in April 2005, she has never been on any work. Thus, according to the respondents she is not entitled for any wages.

9. At this stage, it may be noticed, without going into the merits of the case, the matter can be disposed of on the ground that this Tribunal has got no jurisdiction to entertain the matter as the applicant was not engaged on any post. In fact, there is not post of Sweeper available in Sub Divisional office Telecom, Mahuwa, where the applicant has stated to have worked as contingent paid Safaiwala continuously, though according to the respondents, the applicant was neither engaged on part time basis or full time basis as Daily Wage worker. Further the applicant is claiming regularization of her service in BSNL which is admittedly a corporation for which this Tribunal has got no jurisdiction to adjudicate the matter, so long as notification under Section 14 (2) of the Administrative Tribunals Act, 1985 is issued by the Central Government so as to bring the BSNL within the jurisdiction of this Tribunal.

10. For the foregoing reasons, the present OA as well as MA No.153/2005 are accordingly disposed of as this Tribunal has got no jurisdiction to entertain the matter with no order as to costs.



(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./