

18/11/2007 MR. ALOK SHARMA, counsel for applicant.

Heard the learned counsel for
the applicant.

for the reasons dictated separately,
the OA is dismissed.

Arvind
(J.P. Shinde)
M(A)

(D.P.J.)
(M.L. Charkha)
M(T)

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No. 479/2006.

Jaipur, this the 18th day of January, 2007.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. J. P. Shukla, Administrative Member.

Gopal Das
S/o Shri Phool Chand Nakwal
Aged about 33 years,
R/o Plot No.6, Heeda Ki Mori,
Gandhi Circle, Harizen Basti,
Jaipur.

... Applicant.

By Advocate : Mr. Alok Sharma.

Vs.

1. Union of India
Through Secretary,
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. Addl. Suptd. Dak Ghar,
Station Road,
Jaipur.
4. Sub Post Master,
HSG-II, Tripolia Bazar,
Jaipur.

... Respondents.

: O R D E R (ORAL) :

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

"In view of facts and grounds mentioned herein above. It is, therefore, prayed that this Original Application may kindly be allowed and relevant

record may kindly be called and be perused, if this Hon'ble Tribunal so pleases and by way of issuing order/direction, respondents may kindly be directed 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 worker on 2.2.1998. Since the service of the applicant was not regularized, he filed OA No.74/2004 before this Tribunal whereby he 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. The said OA was disposed of as the applicant did not press the claim for regularization of his services against Group-D post and he was confining his claim 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. Accordingly, the said OA was disposed of with a direction to the respondents to consider the representation of the applicant in the light of instructions dated 16.09.92 and pass appropriate and speaking order. Consequently, the representation was made by the applicant and the respondents have rejected the same vide impugned order

dated 23.06.2005 (Annexure A/1). Feeling aggrieved by the rejection of the representation, the applicant again filed OA No.381/2005 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 causal labour to the applicant. The said OA was disposed of by this Tribunal vide order dated 23.05.2006 with a direction 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. It may be stated here that the said direction was given to the respondents as the case of the applicant to make him full time casual labour by readjustment or combination of duties was considered in respect of ED post available at Tripolia Bazar Post Office where the applicant was working and the applicant did not fulfill the requisite educational qualification of VIIIth pass which is minimum requirement for ED Post. Though, this contention of the respondents was upheld by the Tribunal but as already stated above, the directions

were given to the respondents to explore the feasibility of the readjustment or combination of duties of the post of the applicant with respect to the post lying vacant in other unit such as GPO, Jaipur where the post of Sweeper is lying vacant. Pursuant to the direction given by this Tribunal, the respondents have passed the impugned order dated 13.10.2006 (Annexure A/1). At this stage, it will be useful to quote Para 3 to 6 of the order, which thus reads as under :-

"3. In accordance with the orders of Hon'ble CAT, the Department has examined the matter in the light of existing instructions issued by the Department and has come to the conclusion that it is not possible to combine the duties of two part-time casual labourers in the same unit or part-time casual labourers of two units in the same Division to provide full-time engagement to the applicant, who at present is performing duty for five hours as in such an event the Department will have to dispense with the services of one of such part-time casual labourer which may result in further litigation. Also, it may not be practical for one person to serve at a time at two different places which may be located at a distance.

4. In the light of the orders of the Hon'ble CAT, the matter to appoint the applicant as full time casual labourer in accordance with the directions of Postal Directorate, New Delhi issued vide No.45-14/92-SPB-1 dated 30.11.98 has also been examined but it has not been found possible to consider him to appoint as full time casual labourer by relaxing the minimum requirement of educational qualification which is VIII class pass, as the prescribed qualification is already very low qualification and it will not be in the interest of the organization to lower it further by relaxing the same.

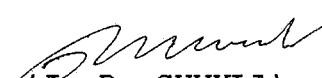
5. Recently a constitution Bench of Hon'ble Supreme Court of India in its judgment dated April 10, 2006 in OA No.3595-3612 of 1999 with OA No.1861-2063/2001, 3849/2001, 3520-3524/2002 and OA No.1968 of 2006 arising out of SLP ©9103-9105 of 2001 in case of Secretary, State of Karnataka and others vs. Uma Devi and others, puts at rest the claims of such

casual labourers. It held that if there exist vacant sanctioned posts the same may be filled up in terms of the provisions of the Recruitment Rules.

6. In view of the above, it has not been possible to confer the status of full time casual labourer on the applicant."

3. Learned Counsel for the applicant could not satisfy this Tribunal as to how the relief can be granted to the applicant on the basis of the finding recorded by the respondents and as to how this order is not legally sustainable. Thus, according to us, the applicant has not made out any case for the grant of relief and we are of the view that there is no infirmity in the finding given by the respondents while rejecting the case of the applicant pursuant to the direction given by this Tribunal in OA No.381/2005 decided on 23.05.2006.

4. For the foregoing reasons, we are of the view that the applicant has not made out any case for the grant of relief and the OA is accordingly dismissed in limine with no order as to costs.


(J. P. SHUKLA)
ADMINISTRATIVE MEMBER


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./