

10/04/2012

O.A. 514/2008

Present : Mr. C.B. Sharma counsel for the applicant.
Mr. D.C. Sharma counsel for respondents.

This case has been listed before Joint Registrar due to non-availability of Division Bench. Let the matter be placed before the Hon'ble Bench on 26/04/2012.


(Gurmit Singh)
Joint Registrar

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26/04/2012

O.A. 514/2008

Mr. C.B. Sharma, counsel for applicant.
Mr. D.C. Sharma, counsel for respondents.

Heard.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
[Anil Kumar]
Member (A)

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 26th day of April, 2012

ORIGINAL APPLICATION No. 514/2008

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Jitendra Saini
s/o Shri Mitthan Lal Saini,
r/o E-9, Govindpuri, Ram Nagar,
Sodala, Jaipur and presently working as
Messenger (Pension Section)
Office of Dy. Director General,
Geological Survey of India,
Western Region, Jhalana Doongari,
Jaipur

... Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
Through its Secretary
Ministry of Mines, Government of India,
Department of Geological Survey of India,
New Delhi.
2. Director General,
Geological Survey of India,
27, Jawahar Lal Nehru Road,
Kolkata.

3. Dy. Director General,
Geological Survey of India,
Western Region,
Jhalana Doongari,
Jaipur

... Respondents

(By Advocate : Shri D.C.Sharma)

ORDER (ORAL)

The applicant by way of this OA claims relief that his services be counted from 5.6.1989 with the regularization w.e.f. 1.10.91 by modifying memo dated 19.3.1999.

2. Admittedly, the applicant was appointed as Tea/Coffee maker on temporary basis on 5.6.1989. The applicant was paid Rs. 969/- towards the salary for the month of June, 1989. The payment of regular pay bill for the month of October, 1989 was not paid to the applicant on account of non-availability of the post of Tea and Coffee Maker from the Director (Canteens), Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) New Delhi. A decision was taken to freeze the present staff strength of the employees of non-statutory registered departmental/cooperative canteens and Tiffin Rooms located in Central Government Offices and there was a completed ban on creation and filling up posts as well as on filling up vacancies due to



retirement, death, resignation dismissal, removal etc. till further orders.

3. However, the department has taken liberal attitude toward the applicant and not terminated his services, as laid down in the offer of appointment dated 5.9.1989 considering the indigent condition of his family. The applicant was placed on daily wages chit-basis @ 33.30 per day w.e.f. 1.10.89 onwards and required to be absorbed on regular appointment as and when the post is available.


4. Later on, the applicant submitted undertaking vide Ann.R/2 wherein the applicant has undertaken that in case he is selected for regularization in any Group-D regular post, he will withdraw all legal cases pending in the court (payment of wages act). On the basis of this undertaking, the Payment of Wages Authority vide order dated 26.6.1999 (Ann.R/3) dismissed the case No. 95/92.

5. It is not disputed that the applicant is given regular appointment on the post of Messenger. He stands satisfied with the appointment as Messenger in Group-D which was fresh appointment but by way of this OA he is claiming seniority w.e.f. 5.6.89 and further claims regularization w.e.f. 1.10.91 which, in our considered view, is not tenable and the relief claimed by the applicant cannot be granted, as fresh appointment in Group-D on



regular post has been made on the basis of the undertaking furnished by the applicant.

6. Consequently, the OA being bereft of merit deserves to be dismissed, which is hereby dismissed with no order as to costs.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/