

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.100/2255/2013

New Delhi this the 20th day of October, 2016

HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)

Jitender Pal (Working as T.S)
S/o Shri Harish Chand
R/o 4370, Arya Pura,
Subzi Mandi, Delhi.Applicant

(Applicant in person)

Versus

1. Govt. of NCTD through
The Secretary,
Public Works Department,
Old Secretariat, Delhi.
2. Chief Engineer (PWD) Zone M-4,
Govt. of NCT of Delhi,
9th Floor, MSO Building,
PHQ, ITO,
New Delhi-110002.
3. Director of Administration,
Directorate General of Works,
CPWD, Nirman Bhawan, New Delhi.
4. The Executive Engineer,
Co-ordination (Civil), NR,
East Block-I, Level-VI, R.K. Puram,
New Delhi-110066. ...Respondents

(By Advocate: Ms. Anupa Bansal for Mrs. Alka Sharma)

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

The contour of the facts and material, relevant for deciding the instant Original Application (OA), and expounded from the record, is that the applicant, Jitender Pal was engaged as a Waterman w.e.f. 01.05.1987 for a

period of 5 months on daily wages. Thereafter, his term has been extended from time to time and since then he is continuously working in the department. The respondents did not regularise his services which necessitated him to file OA bearing No.2552/2000. The OA came to be decided vide order dated 14.12.2001 (Annexure A-2) by this Tribunal.

The operative part of the order reads as under:-

“5. On the other hand, the learned counsel for the respondents has denied that the applicant is continuously working for 9 years. After perusing the documents annexed by the applicant to the rejoinder, it is quite clear that he has been working with the respondents continuously from 1991 to 2000. He is, therefore, covered under the Scheme of 10.09.1993 issued by DOP&T and he is entitled for consideration for regularisation as he has been working for such a long time. His case is also covered by the judgment of Apex Court (supra). In the circumstances, I feel that ends of justice will be duly met if a direction is given to the respondents to consider regularisation of the applicant against a suitable Group 'D' post from the due date in accordance with law, rules and instructions on the subject. I do so accordingly. In case there is no vacancy, he may be considered for appointment on regular basis against the first vacancy available in any unit of the respondent-department or by creating a post for him. This exercise shall be completed within a period of three months from the date of receipt of copy of this order”.

It is not a matter of dispute, that the Annexure A-2 order of this Tribunal has already attained finality.

2. Now the applicant has preferred the instant OA, for regularisation of his services with all consequential benefits mainly on the ground that the respondents have not regularised his services despite the order of this Tribunal and applicant's repeated requests/representations. In a way, he is seeking the implementation of the Annexure A-2 order of this Tribunal.

3. The respondents have filed a very routine reply and have very vaguely pleaded that being a policy matter,

decision for regularisation has to be taken by the competent authority, i.e., Director General, CPWD and who had earlier sought information during the year 2011 for one time relaxation in regard to the work charged posts. However, the respondents have not denied the filing of earlier OA by the applicant and its acceptance by this Tribunal (Annexure A-2).

4. Controverting the pleadings contained in the reply of the respondents and reiterating the grounds contained in the OA, the applicant has filed his rejoinder. That is how we are seized of the matter.

5. We have heard the learned counsel for the parties and have gone through the records with their valuable assistance.

6. What cannot possibly be disputed here is that, this Tribunal, vide Annexure A-2 order, has specifically held that applicant has been working with the respondents continuously from 1991 to 2000. He is, therefore, covered under the Scheme of 10.09.1993 issued by DOP&T. At the same time, the respondents were directed to consider the case of the applicant for regularisation of his services against a suitable Group 'D' post from the due date in accordance with law, rules and instructions. It was also directed that in case there is no vacancy, he may be considered for appointment on regular basis against the first vacancy

available in any unit of the respondent-department or by creating a post for him, within a period of three months from the date of receipt of copy of that order.

7. Surprisingly enough, the services of the applicant were not regularised by the respondents for the reason best known to them. On 07.09.2016, learned counsel for respondents No.1 and 2 stated at the Bar that PWD (respondents No.1 & 2) have no power to regularise the services of the applicant and it is respondent No.3, Director (Administration), Directorate General of Works, CPWD, Nirman Bhawan, New Delhi, who is competent to regularise his services. As a consequence thereof, the Director (Administration) (respondent No.3) was directed either to comply with the indicated directions or to be present in person in the court to explain his conduct in this regard by this Tribunal.

8. In the wake of notice, respondent No.3 appeared and explained that he has already granted the sanction and directed the competent authority to regularise the services of the applicant in compliance of the order of this Tribunal. He has also placed on record copies of the Office Orders dated 14.10.2016/Corrigendum dated 17.10.2016 whereby the services of the applicant have been ordered to be regularised w.e.f. 28.02.2003 on the post of MTS. The respondent No.3 has also assured this court, to release all the consequential

monetary benefits to the applicant, in compliance of the Annexure A-2 order of this Tribunal.

9. Therefore, now since the respondents have regularised the services of the applicant and assured to release the consequential monetary benefits to him, no further action is required to be taken in this matter and hence OA becomes infructuous.

10. In the light of the aforesaid reasons, the OA is hereby dismissed as having become infructuous. However, the parties are left to bear their own costs.

Needless to mention, in case the applicant still remains aggrieved by the indicated order/action of the respondents, he would be at liberty to approach the competent authority for redressal of his grievance or to avail appropriate legal remedies in accordance with law, if so advised.

(K.N. SHRIVASTAVA)
MEMBER (A)
20.10.2016

(JUSTICE M.S. SULLAR)
MEMBER (J)
20.10.2016

Rakesh