

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 4325/2011

New Delhi, this the 3rd day of October, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)

Hawa Singh,
S/o Shri Ganpat,
R/o D-282, Karan Vihar,
Suleman Nagar, Karadi,
Delhi.

.. Applicant

(By Advocate : Shri A.P. Dhamija)

Versus

1. South Delhi Municipal Corporation,
Through Commissioner,
Civil Centre, Shyama Prasad Mukherjee Marg,
New Delhi.
2. The Deputy Commissioner,
South Delhi Municipal Corporation,
Najafgarh Zone, Najafgarh,
New Delhi.
3. North Delhi Municipal Corporation,
Through Commissioner,
Civil Centre, Shyama Prasad Mukherjee Marg,
New Delhi.
4. The Deputy Commissioner,
North Delhi Municipal Corporation,
Narela Zone, Narela,
Delhi. .. Respondents

(By Advocate : Mrs. Anupama Bansal for R-1 and 2 and
Shri Manjeet Singh Reen for R-3 and 4)

ORDER (ORAL)

The applicant, Shri Hawa Singh, was appointed initially in 1993 at the time of outbreak of epidemic like Cholera, Plague, Malaria and Dengue in Delhi as Safai Karamchari, which recruitment was done through a special drive. Several of them approached the Hon'ble High Court in Writ Petition No. 1775/2008, which was later on transferred as TA No.453/2009 before this Tribunal, for conversion into Daily Wager Swachchata Karamcharies and regularisation, based on a communication by the respondents dated 15.09.2009 through which several such Swachchata Karamcharies had been converted into Daily Wager Swachchata Karamcharies and regularised. This TA was disposed of vide order dated 21.12.2009 with the following directions:

“TA stands disposed of in light of a communication in respect of one of the applicants, Shri Hawa Singh and also a list prepared by the respondents on 15.09.2009 where left out substitute Swachchata Karamcharies engaged in different zones have been converted into Daily Wager Swachchata Karamcharies and regularisation thereof with a direction to the respondents to process the claim of the applicants for according the benefits of regularisation on re-examination within a period of three months from the date of receipt of a copy of this order. No costs.”

2. Much litigation went on, which we need not go into. Ultimately, this Tribunal disposed of CPs No.164/2012, 165/2012 and 166/2012 and CP No.552/2010 (filed by the applicant) arising out of TA 453/2009 and dismissed the CPs vide order dated 16.07.2013. In the order, the following specific finding was recorded regarding the CP filed by the applicant in this OA, namely Shri Hawa Singh :

“5. As far as the petitioner in CP 552/2010 is concerned, the respondents have already taken him back on service as his

name was mentioned in the order in question and they have stated that in order to be considered for regularization, he needed to complete at least one year service after the date of his reengagement. In the absence of any specific direction for reengagement of either of the petitioners and their regularization, we cannot take a view that by not re-engaging the applicants or regularizing them as Swachchata Karamchari, the respondents committed any willful disobedience of the order dated 21.10.2009 (supra). Nevertheless, it was incumbent upon the respondents to re-examine the entitlement of the applicants for the benefit mentioned in the Office Order dated 15.09.2009 and on finding them eligible for conversion as DWSK, their regularization was to be considered.

xxxx xxxx xxxx

6. The claim of petitioner in CP 552/2010 for regularization has also been examined and it is viewed that before his regularization, he needs to complete his service for at least 240 days as casual DWSK. Thus, we are satisfied that the only exercise required to be done by the respondents, i.e. examination of the claim of the applicant, has been done.”

3. The matter came before the Hon'ble High Court in WPC No.3274/2014 and CM Nos.6759-61/2014 and the matter was remanded back to the Tribunal by the following order:

“We have considered the submissions of the parties as well as the materials on the record. These nowhere indicate that any conscious or speaking order rejecting the petitioner's claim was made by the respondents who rather chose to contest the contempt proceedings and thereafter the revival proceedings. In these circumstances, keeping in mind the fact that the petitioner appears to have been driven to agitate his grievances at multiple levels on different occasions, we are of the opinion that O.A. No.4325/2011 should be revived; it is accordingly directed. The CAT may permit such amendments to the applications as are necessary having regard to these subsequent events. The CAT is requested to dispose off this application after hearing the parties and their submissions within six months from today. The parties are directed to appear before the CAT on 11.07.2014.

All rights and contentions of the parties are reserved.”

This order of the Hon'ble High Court is the genesis of the present O.A.

4. The respondents state that the only reason why the applicant cannot be considered for Daily Wager Swachchata Karamchari as well as regularisation is the fact that the applicant has to work for minimum 240 days regularly in the previous years for getting regularised, whereas the applicant worked only for four years, four months and 19 days. It is further stated that the applicant has been engaged only on the direction of the Tribunal.

5. Admittedly, in the additional affidavit filed by the applicant through MA No.3453/2011 in TA No.453/2009, at the time of hearing of Contempt Petition, they had filed a duty chart of the applicant as Substitute Swachchata Karamchari, which is signed by Shri Joginder Singh, SI, W.No.31, in which the following days are shown on which the applicant has worked, month-wise, from 16.01.2010 to 15.01.2014:

Duration	16.1 to 15.2	16.2 to 15.3	16.3 to 15.4	16.4 to 15.5	16.5 to 15.6	16.6 to 15.7	16.7 to 15.8	16.8 to 15.9	16.9 to 15.10	16.10 to 15.11	16.11 to 15.12	16.12 to 15.1
16.01.10 to 15.01.11										09	26	27
16.01.11 to 15.01.12	25	24	27	26	26	26	26	27	26	26	26	26
16.01.12 to 15.01.13	27	25	26	26	27	25	27	27	25	27	26	26
16.01.13 to 15.01.14	27	24	26	26	26							

It is clear from this that in the year 2011-2012 and 2012-2013, the applicant has worked for more than 240 days.

6. Heard the learned counsel for both sides and perused the record.

7. The only objection of the respondents is that the applicant has not worked for 240 days. The applicant has produced the duty chart, as mentioned above, which indicates that he had worked for 240 days in 2011-12 and 2012-13. Therefore, I see no reason why the applicant, as per the own stand of the respondents, cannot be regularised w.e.f. 16.01.2012, when he completes 240 days.

8. The O.A. is, therefore, disposed of with a direction to the respondents to regularise the service of the applicant from 16.01.2012, when he completed 240 days. Time frame of 90 days is fixed for compliance of this order from receipt of certified copy of this order. No order as to costs.

(P.K. Basu)
Member (A)

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