

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.3862 of 2015

This the 16th day of October, 2015

HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)
HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)

Smt. Binder Devi, aged about 45 years,
S/o Sh. Raj Kumar,
R/o C-17, 682, Ganesh Nagar-II,
Sakar Pur, New Delhi-110092.

Working as Casual Labourer (Peon)
In M/o Culture,
At Janpath Bhawan, New Delhi.

... Applicant

(By Advocate: Shri M.K. Chawla with Shri G.D. Chawla)

Versus

1. Union of India, through the Secretary,
Department of Culture,
M/o Tourism & Culture, Govt. of India,
Shastri Bhawan, New Delhi-110001.
2. The Director, North Central Zone,
Culture Centre,
14-C, S.P. Singh Marg,
Allahabad-211001.
3. The Director,
North Central Zone,
Culture Centre Delhi Sub-Centre,
Janpath Bhawan, IIIrd Floor,
Janpath, New Delhi.

... Respondents

ORDER (ORAL)

MR. JUSTICE L.N. MITTAL, MEMBER (J) :

The applicant - Binder Devi has filed this OA assailing the order dated 25.7.2014 (part of Annexure A-2) passed by the respondent no.2 thereby rejecting the claim of the applicant for regularisation of her services.

2. The applicant was allegedly appointed as Peon on daily wages on 14.6.1993. The applicant claims to be entitled to temporary status w.e.f. 14.6.1994 (on expiry of one year of service) under Scheme dated 10.9.1993.

3. The applicant earlier filed OA 3090/2011 which was decided by this Tribunal vide Order dated 20.9.2011 (Annexure A1) thereby directing the respondents to look into the representation dated 4.6.2010 of the applicant and take a decision on the same in accordance with the rules and convey the decision to the applicant through a reasoned and speaking order. Pursuant thereto, the impugned order dated 25.7.2014 appears to have been passed rejecting the claim of the applicant, necessitating the filing of the instant OA.

3. We have heard counsel for the applicant and perused the case file.

4. Counsel for the applicant stressed that the applicant is in service for the last 22 years and, therefore, she is entitled to be conferred with temporary status casual labourer. The contention cannot be accepted in view of the impugned order dated 25.7.2014 passed by the respondent no.2 wherein it has been stated that claim of similarly situated employees was considered, including the claim of the applicant, and on the basis of the inter se seniority, regularisation/temporary status was granted but the applicant did not fall in the seniority for the same relief. It has also been mentioned that there were only 31 sanctioned posts of class IV employees and

all the said posts stand filled up and there is no vacancy against which the applicant could have been regularised. It has also mentioned in the impugned order that due procedure had not been followed when the applicant was appointed on daily wages. For this reason also, she could not be granted the relief claimed by her.

5. In these circumstances, counsel for the applicant could not point out any infirmity much less illegality in the impugned order except repeatedly emphasising that the applicant has put in long service of 22 years and is, therefore, entitled to the relief claimed by her. Merely on the ground that she has served for 22 years, she cannot be granted the relief when she did not fall in the seniority and there is no vacant post against which the relief may be granted to her.

6. Faced with the aforesaid situation, counsel for the applicant contended that the respondent no.2, Director of North Central Zone Cultural Centre, Allahabad, had no jurisdiction to pass the impugned order because the applicant is serving at Delhi. This contention is also untenable as in OA No.3090/2011 previously filed by the applicant, she had impleaded respondent no.2 herein also as respondent no.2 therein and the respondents were accordingly directed to pass a speaking and reasoned order. Pursuant to the Order dated 20.9.2011 passed in the said OA, the respondent no.2 has passed the impugned order. The applicant herein has also submitted a representation dated 9.4.2014 also to respondent

no.2. Consequently, it does not lie in the mouth of the applicant to contend that the respondent no.2 had no power to pass the impugned order. On the contrary, on the submissions of counsel for the applicant, it appeared that the applicant is posted in Sub-Centre at Delhi which is Sub-Centre of Allahabad Zone, Culture Centre. For this reason also, the respondent no.2 had power to pass the impugned order.

7. Since we find no infirmity in the impugned order, the instant OA is dismissed at the admission stage itself.

(SHEKHAR AGARWAL)
MEMBER (A)

(JUSTICE L.N. MITTAL)
MEMBER (J)

/ravi/