

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH**

**Original Application No. 225/ 2014**

Reserved on 14.11.2017

Pronounced on \_\_24.11.2017\_\_

**CORAM :**

**Hon'ble Shri A. K. Upadhyay, Member (A)**  
**Hon'ble Shri Jayesh V. Bhairavia, Member (J)**

- .....
1. Hemant Kumar Son of Sri Yamuna Ram Resident of Village & P.O.- Tara Nagar, P.S. Bihta, District- Patna (Bihar) Ex-Daily Rated Mazdoor, B.S.N.L. Office of the Sub Divisional Engineer (Cable) Kankarbagh, Patna (Bihar).

**.....Applicants**

**By Advocate : Shri M.P.Dixit**

**VERSUS**

1. The Union of India through the Chief Managing Director, B.S. N.L. Patna.
2. The Principal General Manager, Telecom, Biha Circle, Patna.
3. The Assttant General Manager (Admn). B.S.N.L. Offic of Principal General Manager, Telecom District, Patna.
4. The Divisional Engineer Phones (Administration) Office of Principal General Manager, Telecom District, B.S.N.L., Patna
5. The Area Manager (East) P.T. Divisional Rejendra Nagar, B,.S.N.L. Patna.
6. The Sub Divisional Engineer (able) B.S.N.L. Kankarbagh, Patna-800020
7. TheSub Divisional Officer, Telephone , B.S.M.L. Giridih.
8. The Assistant Engineer, B.S.N.L (able) Jharia.
9. The Divisional Engineer Phons B.S.N.L. Kankarbagh, Patna-800020.  
The SubDivisional Officer Phone (West) B.S.N.L. Kankarbagh, Patna -800020.

**....Respondents**

**By Advocate : Shri Rajesh Kumar**

**ORDER**

**Per Jayesh V. Bhairavia, Member (J):**

The applicants in this O.A is aggrieved by the order 10.07.2013 issued by the rsondentno.3 whereby the claim of applicant for his absorption against Group-D post has been rejected. As such, he prays for the following relief(s) :-

*"[8.1] That your Lordships may graciously be pleased to quash and set aside the order dated 10.07.2013 as contained in Annexure- A/16 being illegal, based on wrong facts, arbitrary, unconstitutional and discriminatory.*

*[8.2] That your Lordships may further be pleased to direct the Respondents to grant the temporary status and absorb the in any Group "D" post at part with similarly placed co-employees including juniors as named in the Original Application viz Md. Quayum Ansari, Baleshwar Prasad, Shrawan Kumar and Umesh Prasad with all consequential benefits without any further delay.*

*[8.3] Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the applicant."*

2. The brief facts of the case, as submitted by the applicants, are as below :-

[i] The applicant namely Shri Hemant Kumar was initially appointed/engaged with effect from 01.04.1988 on daily wages and he worked continuously till 30.06.2000. He further submits that beyond that period he has not been issued any working certificate .

[ii] In the meanwhile the respondents started processing for grant of temporary status and regularisation of such labourers. In this regard, he had issued a letter on 19.08.1998.(Annexure A/2). The name of applicant was also included for this purpose which is evident from letter dated 28.02.2001 issued by the respondent no.6.

[iii] The respondent no.6 submitted the working report of the labourers on 16.03.2001 (Annexure A/3) to the respondent no.4 wherein the applicant was found eligible for grant of temporary status.

[iv] After proper verification, a report of genuineness of Daily Rated Mazdoor was furnished by the concerned respondents to the respondent no.4 which was subsequently approved and sent to with his letter dated 06.07.2001 in which the name of applicant appears at Sl.No.9.

[v] It has come to the knowledge of applicant that the respondent no.4 has sent a letter to respondent no. 9 on 05.12.2001 (Annexure A/6) seeking clarification in regard to working period from 01.01.1996 to 15.08.1996 and 01.01.1997 to 09.04.2000 alongwith payment particulars. He further submitted that respondent no.4 again issued a letter on 02.01.2002 to respondent no. 9.

[vi] In the meanwhile the applicant came to know that some of the employee have been granted temporary status and subsequently they have been regularised as Regular Mazdoor but the applicant has been denied without any reason. However, the applicant had filed a representation to respondents and respondent no. 6 & 9 enquired the matter but applicant remained deprived.

[vi] Being aggrieved, the applicant approached the Hon'ble High Court, Patna through CWJC No. 1183/2006 (Annexure A/10) which was disposed of on 14.02.2007 with a direction to consider the averments made in para 12 & 13 para 4.9 and 4.10 of the O.A) with regard to the claim of the applicant as

made in annexure A/8 expeditiously by obtaining necessary approval of the competent authority if so required.

[ vii] The applicant was asked vide letter dated 25.06.2007 to appear in the chamber of AGM (A) on 10.07.2007 at 11:30 hrs. The applicant appeared before the said authority whereby some queries had been made. The applicant submitted a detail reply on 02.08.2007.

[viii] Looking no compliance of the order of the Hon'ble High Court, applicant filed a contempt petition i.e MJC No. 291 of 2008 on 28.01.2008. After receipt of the notice from Hon'ble High Court, the respondents had issued a letter on 19.05.2010 rejecting the claim of applicant.

[ ix ] The applicant, thereafter filed an O.A 592/2010 before this Tribunal challenging the order dated 19.05.2010 which was disposed of vide order dated 24.07.2012 which a direction upon the respondents to examine afresh as to whether the persons who have been granted TSM and regularisation on same or different footing and then take decision. The applicant, looking no response, had filed CCPA 142/2012. Thereafter the respondents passed order vide letter dated 10.07.2013. Being aggrieved by the said order, the applicant has filed this O.A.

In sum, I/c for applicant submits that the action of respondents is malafide, collateral purpose and colourable exercise of power hence this O.A.

3. The respondents through their written statement have submitted as below :-

[i ] The learned counsel for respondents submits that applicant has annexed a work certificate issued by SDO Giridih with effect from April 1988 to December 1995 with master roll number but same was not verified by the concerned circle division. The applicant did not produce any valid reason that how he reached Patna and performed duty from next date. The competent authority asked the applicant to prove the genuineness of the said certificate but he failed to produce any documents and the other documents produced by the applicant was not properly verified. As such, the committee did not consider the case of applicant.

[ii ] That, the applicant case was placed alongwith other persons for consideration of his claim but his case was found not similar as he had annexed forged and fabricated documents. The AGM (Admin) PTD made

several correspondences with applicant for submission of valid proof in support of his claim and finally last opportunity was granted on 04.06.2008 to submit required documents for consideration of his claim but the applicant did not submit any required documents.

[iii] The learned counsel for respondents further submits that in compliance of order of this Tribunal, the respondent authority had passed reasoned and speaking order on 10.07.2013 (Annexure A/16) which emerges that the case of applicant was carefully examined in the light of similarly situated person which were mentioned in O.A 592/2010 and found that the persons who got temporary status/regularisation because they were fulfilling the criteria laid down by the DOT while applicant was not hence the case of applicant was rejected.

4. The applicant has filed rejoinder to the written statement reiterating his earlier submissions in the O.A. Apart from that he submitted that the documents obtained under RTI reply including work report dated 04.11.2009 (Annexure A/17) has not been denied by the respondents and further the said RTI reply has been examined and affirmed by this Tribunal in OA No. 549 of 2003 vide order dated 28.05.2015 in case of one Sri Gajendra Kumar whose name is also in the said Annexure A/17.

5. We have heard the learned counsel for both the parties and perused the records of the case. It has been noticed that the applicant herein was asked to submit work report. However, the applicant had submitted the work certificate issued by SDO Giridih for the period from April 1988 to December 1995 with master roll number but same was found not duly verified by the concerned circle division. The respondents raised objection on its validity therefore asked the applicant to prove its genuineness of the said certificate/documents. In this regard, The AGM (Admin) PTD made several correspondences with applicant for submission of valid proof in support of his claim and finally last opportunity was granted on 04.06.2008 to submit required documents for consideration of his claim but the applicant did not submit any required documents nor shown any reason that how he reached Patna and performed duty from next date. As such, the committee did not consider the case of applicant.

6. It is apt to note that, in compliance of order mentioned in O.A 592/2010 of this Tribunal, the respondent carefully examined the case of applicant in the light of similarly situated person and those were fulfilling the criteria laid down by the DOT have been granted temporary status /regularisation while applicant was not fulfilling the same hence, the case of applicant was rejected. The learned counsel for applicant has relied upon

a judgment passed on 13.11.2017 by the Hon'ble High Court, Patna in CWJC 12126 of 2017 but the same is not applicable with regard to facts of the present case.

7. In view of the above, we find that the case of applicant is devoid of merit as the applicant failed to prove the genuineness of the document therefore, the reliefs prayed for in this O.A is rejected. No costs.

**[Jayesh V. Bhairavia]**  
Member(J)

**[A. K. Upadhyay]**  
Member (A)

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