

LIBRARY

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/1004/2017

Date of order: 04.12.2018

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Bhaskar Dutta, son of late Samarendra Nath Dutta, aged about 43 years, residing at 10, Vivekananda Sarani, P.O. Sodepur, Calcutta-700110 working as Night Guard in the Sodepur Post Office, 24 Parganas(N).

.....Applicant.

-versus-



1. Union of India through the Secretary, Govt. of India, Ministry of Communication and Information Technology, Dept. of Post, 20, Sanchar Bhawan, Ashoka Road, New Delhi- 110001.
2. The Chief Post Master General, West Bengal Circle, South Bengal Region, Jogayog Bhavan, Chitta-Ranjan Avenue, Kolkata – 700012.
3. The Senior Superintendent of Post Offices, North Presidency Division, Barrackpore, 24 Parganas (N), Pin- 700110.
4. The Post Master, Sodepur Post Office , Post Office- Sodepur, Dist- North 24 Parganas, Pin- 700110.

.....Respondents.

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. B. P. Manna, Counsel

B

ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:

Heard both.

2. Ld. Counsel for applicant submitted that the applicant has been shifted from day shift to night shift which contradicts the prayer made at para 8(a) of the OA where the applicant has himself admitted that he has been discharging duties from 6 P.M. to 6 A.M. since 1994.

3. Ld. Counsel for applicant prayed for liberty to file a comprehensive representation to seek appropriate wages in view of the recent ruling of the Hon'ble Apex Court on 14.11.2018 in **Sabha Shankar Dube vs. DFO, Civil Appeal No.10956 of 2018** with other matters Hon'ble Apex Court therein, while discussing the implications of its earlier decisions in **State of U.P. Vs. Puttilal reported in (2006) SCC 337 and State of Punjab Vs. Jagjit Singh reported in (2017)1 SCC 148**, held as under:

"9. On a comprehensive consideration of the entire law on the subject of parity of pay scales on the principle of equal pay for equal work, this Court in Jagjit Singh(supra) held as follows:

"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

10. The issue that was considered by this Court in *Jagjit Singh (supra)* is whether temporary employees (daily wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and likewise) are entitled to the minimum of the regular pay scales on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts. After considering several judgments including the judgments of this Court in *Tilak Raj (supra)* and *Surjit Singh (supra)*, this Court held that temporary employees are entitled to draw wages at the minimum of the pay scales which are applicable to the regular employees holding the same post.

11. In view of the judgment in *Jagjit Singh (supra)*, we are unable to uphold the view of the High Court that the Appellants herein are not entitled to be paid the minimum of the pay scales. We are not called upon to adjudicate on the rights of the Appellants relating to the regularization of their services. We are concerned only with the principle laid down by this Court initially in *Putti Lai (supra)* relating to persons who are similarly situated to the Appellants and later affirmed in *Jagjit Singh (supra)* that temporary employees are entitled to minimum of the pay scales as long as they continue in service.

12. We express no opinion on the contention of the State Government that the Appellants are not entitled to the reliefs as they are not working on Group 'D' posts and that some of them worked for short periods in projects.

13. For the aforementioned reasons, we allow these Appeals and set aside the judgments of the High Court holding that the Appellants are entitled to be paid the minimum of the pay scales applicable to regular employees working on the same posts. The State of Uttar Pradesh is directed to make payment of the minimum of pay scales to the Appellants with effect from 1st December, 2018."

4. In view of the above, we permit the applicant to withdraw the present OA and file a comprehensive representation to seek benefits of the said judgment cited (supra) within a period of 6 weeks from the date of receipt of a copy of this order.

5. In the event, if such representation is preferred, the respondents shall duly consider the same in accordance with the decision of Hon'ble Apex Court and pass an appropriate order within a further period of 4 weeks.

6. Ld. Counsel for respondents admits at the bar that the applicant is being utilised on the basis of Court's order and there is no proposal to discontinue him.

7. Accordingly, OA would stand disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)
pd

(Bidisha Banerjee)
Member (J)

