

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI**

O.A. No.3573 of 2017

Orders reserved on 06.12.2018

Orders pronounced on : 11.12.2018

Hon'ble Ms. Nita Chowdhury, Member (A)

Sh. Mehak Singh
s/o Late Atma Ram Sharma
Aged about 62 years
R/o H.No.470, Durgapuri Extension,
Near R.K. Studio, Delhi-110093.

Also at : C.P. Chaukiddar Group-D
VPO Ailum, District Shamli,
Uttar Pradesh-247771.

....Applicant
(By Advocate : Shri Ratnesh Kant)

VERSUS

1. Ministry of Communications,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi-110001.

2. Department of Posts,
CPMG, U.P. Circle,
Lucknow-226001.

3. Department of Posts,
Superintendent of Post Offices
Muzaffarnagar Division,
Muzaffarnagar-251001.

.....Respondents
(By Advocate : Shri A.K. Singh)

O R D E R

Heard learned counsel for the parties and perused the
material placed on record.

2. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- “(i) give directions to the respondents to provide all the retirement benefits such as pension, gratuity, GPF etc. to the applicant;
- (ii) To award all consequential benefits;
- (iii) To cost against the Respondent;
- (iv) Pass such other and further orders which this Hon’ble Tribunal may deem fit and proper in the interest of justice.”

3. Brief facts of the case that applicant was engaged in the respondent – department on 1.6.1976 and applicant was conferred temporary status w.e.f. 29.11.1989 vide order dated 25.2.1992. The applicant was also conferred the benefits at par with Group ‘D’ status’ from the date of completion of three years of service in temporary status vide order dated 13.8.2002. The duties of the applicants were ordered to be dispensed with on 31.12.2015 after attaining the age of superannuation vide order dated 29.12.2015.

4. The applicant’s case was approved as MTS and he was ordered for training vide order dated 2.12.2011 but applicant officially refused the same vide his application dated 13.12.2011 (Annexure CA-5) which reads as under:-

“उपरोक्त विषय मैं निवेदन है कि प्रार्थी उपडाकघर एलम मे CP चौकीदार के पद पर कार्यरत है। प्रार्थी को पता चला है कि पदोन्ति ग्रुप डी पद पर की जा रही है। प्रार्थी अपने ही पद पर कार्य करने को इच्छुक है। अतः आपसे निवेदन है कि प्रार्थी के स्थान पर किसी अन्य वयक्ति को पदोन्ति

करने की कृपा करे व प्रार्थी को उसके मूल पद पर ही कार्य करने दिया जाये।"

5. The applicant was asked by SSPOs Muzaffarnagar vide letter dated 14.12.2011 to clarify the reasons for refusal. The applicant replied vide his letter dated 16.12.2011, which reads as under:-

“निवेदन है की मे 07.12.11 मे मु.नगर दवाई लेने के चककर मे ही गया था दफ्तर मे भी गया था परन्तु मुझे पता चला की ग्रुप डी के पद के लिए तुम्हारी भी टेनिंग होगी दो दिन जब मैं शाम को घर पंहुचा तो मुझे लैटर मिला बीमारी की स्थिति में था ही इसीलिए मैंने मेडिकल दिया था । इधर वृद्ध माताजी हैं उनका भी स्वास्थ्य उनकी देख रेख मुझे ही करनी पड़ती हैं और मेरे सिर्फ 4 वर्ष ही गये हैं साहब बहादुर फिर गृहस्थी की टेंशन दिमाग में हर समय रहती हैं । बच्चे अभी ऐसे ही हैं और पेंशन वगोरा की लाभ नहीं मिल रहा हैं उधर जाने पर भी मालुम हुआ हैं तो साहब बहादुर के पास अपना प्रार्थना पत्र पहुंचाने के लिए बाबू सूनील कुमार जी को दे रहा था उन्होंने मुझे कह दिया कि ये नहीं लिया जाएगा तुम SDI खतौली को भेजना के खुद साहब बहादुर के पास भेजेंगे इसलिए मैंने खतौली अपना पत्र भेज दिया था । इसीलिए साहब बहादुर से विनती हैं की प्रार्थी को उसको मूल पद पर ही कार्य करने की अनुमति प्रदान करने की कृपा करे ।

धन्यवाद

प्रार्थी
-ह-
महकसिंह CP चौकीदार
डाकघर ऐलम
मु. नगर -
16/12/11”

6. Therefore, the respondents have not regularized him in MTS cadre and as such the respondents have not granted him pensionary benefits because applicant was dispensed on 31.12.2015 with status at par with temporary Group 'D' employee and all the benefits as admissible to him were given to the applicant.

7. From the aforesaid letters as quoted above written by the applicant, it is evidently quite clear that the applicant was given offer of appointment to MTS post as he was working as a temporary status casual labourer and was directed to join training vide order dated 2.12.2011, but the applicant has himself chosen not to proceed on training and intended to continue as such. Explanation was also called from the applicant by the respondents, the applicant vide his letter dated 16.12.2011 made a request that he may be allowed to continue on his present position as he was not willing to join the offered post as per respondents' order dated 2.12.2011.

8. This Court also raised specific query to the learned counsel for the applicant whether at any point of time during service applicant proceeded on MTS Training and when the applicant himself desired to remain as a temporary status casual labour and to show any rules which permits grant of pension and pensionary benefits to a person holding temporary status but not regularised. But the applicant was unable to give any reply to the said query and stated only that the respondents know the factual status of the matter.

9. In view of the above facts and circumstances of this case, this court is unable to accede to the reliefs as prayed for by the applicant in this OA as it settled law that temporary status employees, who are not regularized in service due to certain circumstances which were beyond the control of the

respondents, are not entitled for pensionary benefits, as the pensionary benefits is given to only regularized employee(s) only.

10. In the result, for the foregoing reasons, the instant OA is dismissed. There shall be no order as to costs.

**(Nita Chowdhury)
Member (A)**

/ravi/