

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2870/2013

New Delhi this the 17th day of December, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

1. Smt. Geeta Rani
w/o Late Sh. Rakesh Kumar
r/o H.No. G-204, Teersa Pushta Gali-I
Jagjit Nagar, Shastri Park, Delhi.
2. Smt. Bimla
W/o Sh. Ramavatar
r/o H.No. 8/68, Nand Nagri, Delhi-93

... Applicants

(By Advocate : Mr. Yogesh Sharma)

Versus

1. Government of NCT of Delhi through The Chief Secretary
New Sectt., Near ITO, New Delhi.
2. The Director
Directorate of Social Welfare
Govt. of NCT of Delhi, GLNS Complex
Delhi Gate, New Delhi.

... Respondents

(By Advocates : Mrs. Sumedha Sharma
Mr. Anuj Kumar Sharma for Ms. Sarita Aggarwal)

ORDER (ORAL)

Ms. Nita Chowdhury :

This OA has been filed by the applicant seeking the following reliefs :

“8 (i) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not considering the services of the applicants as Cook is totally illegal, arbitrary and discriminatory and consequently pass an order directing the respondents to consider the case of the applicants for his regularisation to the post of Cooks as done in the case of Sh. Lalit Kumar similarly situated person.

- (ii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to treat the applicants as regular employee of the department from the date of regularisation of the services of junior and similarly situated persons, with all the consequential benefits.
- (iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant with the cost of litigation.

2. It is the case of the applicant that he has been employed by the respondents since almost 30 years, i.e., from 06.02.1989, but has not been considered for regularisation, despite his serving a legal notice on 05.06.2013. Learned counsel for applicant also takes us through the matters pertaining to the similarly placed persons, who have, in fact, been considered against the existing vacancies and they are regularised against the same. He has also drawn our attention to OA No. 4958/2001, in which a similar matter of Sh. Lalit Kumar was decided. He also points out to the case of Sh. Virender Prasad Chourasiya, who was appointed in the Social Welfare Department in 1991 and posted in blind school, who vide OA No. 3787/2011, was also given the benefit of regularisation. To this arguments of the applicant, the respondents state that they have been guided in this matter by the advice of Law Department of Govt. of NCTD, which is as under :-

As per OM No. AB-14017/6/2009-Estt. (RR) dated 30.04.2010, there will be no further recruitment in Group 'D' posts in the Government. Hence, it seems no regular appointments are being taken up by various Departments, including the administrative Department of the GNCTD in Group 'D' posts. Hence, the view of this Department, the administrative Department needs to consider the claim of the applicant for appointment only in case the regular appointment process for group 'D' posts takes place, which at present is banned by the abovesaid DOPTcircular".

3. Having heard the parties, we are unable to accept the reply given by the respondents. He has only listed out the advice of the Govt. of NCTD, but has not stated anything with regard to case of the applicant and as to why they cannot be considered for regular appointment despite working continuously since 06.02.1989 and also despite the fact that we find a number of cases having been shown by the applicant of similarly placed persons, who were working since 1991 and have been considered and regularly appointed by the respondents.

4. Further, we find that no reply has been given to the legal notice served by the applicants. We make it clear that the respondents must explain as to why persons, who were appointed subsequent to the date of appointment of applicant, have been considered for regularisation but regularisation of the applicant, who was appointed earlier to the persons, cited in the legal notice, has not been considered. Hence, the respondents are directed to pass a detailed and speaking order on the legal notice given by the applicant within a period of 30 days from the date of receipt of this order.

5. With the above direction, OA stands disposed of.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

/anjali/