

**Central Administrative Tribunal
Principal Bench**

**OA No. 2268/2014
MA No. 680/2019**

New Delhi this the 4th day of July, 2019

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

Sh. Pallan Ahirwar, Age 42 years
S/o Sh. Chhannu Ahirwar,
R/o H.No.333, First Floor,
Pocket B-5, Sector-11,
Rohini Delhi-110085

- Applicant

(None)

VERSUS

1. The Govt. of NCT of Delhi,
Through its Chief Secretary,
New Delhi

2. Delhi Jal Board,
Govt. of NCT of Delhi,
Varunulaya, Phase-II, Karol Bagh,
New Delhi

- Respondents

(By Advocate: Mr. Rohit Sehrawat for Mr. Rajeev Kumar)

ORDER (Oral)

This OA was previously dismissed in default and for non-prosecution on 13.08.2018. Subsequently, the matter was restored on 01.03.2019. Despite that, the matter is again lingering on account of non appearance for the applicant on 28.03.2019 and on the requests of the adjournment on 16.05.2019 made by the proxy counsel for the applicant. Even on 03.07.2019, proxy counsel appeared for the applicant and sought a pass over but subsequently did not appear. In view of the constant non-appearance of the

applicant, the matter was heard on merits as per Rule 15 of the CAT (Procedure) Rules, 1987.

2. This OA was filed by the applicant, seeking the following reliefs:-

“In view of the circumstances, it is most respectfully prayed that the Hon’ble Tribunal may kindly be pleased to direct the respondents to consider the case of the applicant by regularizing his service and provide all services benefits as per that of regularly employed employee in the interest of justice.

Any other or further order/relief(s), which this Hon’ble Tribunal may deem fit and proper under the facts and circumstances of the present case, may also be passed in favour of the applicant and against the respondents.”

3. This OA was filed by the applicant, alleging that previously CAT, vide its order dated 27.09.2012 in OA No. 3256/2012, directed the Delhi Jal Board to consider and decide the applicant’s representation with regard to regularization of his services and providing other service benefits as that of regular employee. It is his contention that while he was only engaged from time to time but other similarly placed persons have been regularized and he should be given the same benefits as given to the persons referred to by him in SI. Nos. 4,5,6,7,8,9,10,11,14,16,17,18,20,21,22 and 23.

4. The applicant also denied the averments made in the CA given by the respondents and stated in his rejoinder that he was engaged during the monsoon season of 2012, 2013 & 2014 on a contractual bases for 89 days and subsequently disengaged only to be engaged for a similar period in each monsoon season. He further states in the rejoinder that the respondents are in

need of his services but they unnecessarily disengaged him after every season. He has also along with rejoinder given copy of the Delhi Jal Board's Office Order No. 120, dt. 30.06.2012, Office Order No.84 dt. 25.06.2013 and Office Order No. 127 dated 10.07.2019 vide which he along with other persons was engaged as Diver on a contractual basis for the period of 89 days for the purpose of cleaning of Bar Screens & allied works to meet the emergency work during the monsoon period.

5. The respondents accept that the applicant along with other persons were engaged as Diver from time to time only on account of the exigency of work for a specific period during monsoon/pre monsoon session on daily wages/contractual basis for the purpose of cleaning of main Bar Screens/cleaning of Jallies at river regulators at Wazirabad Water Works and in the engagement order itself, it is clearly stated that after completion of this work, the services will be automatically discontinued.

6. The respondents further drew the Court's attention to the Order No.DJB/AD(P&M)/Reguln./2013/99 to 105 dt. 05.08.2013 vide which the representation made by the applicant of this OA for regularization of his services was disposed of. We have perused the said order. In the said order, the policy laid down for regularization of services of the worker working on muster roll has been stated as follows:-

“In this connection, it may be mentioned here that in Delhi Jal Board, there is a policy framed for regularization of the workers working on muster roll in Phased Programme. According to that policy, “those

workers who have been engaged in between a particular Block year (a Block comprises of two years) and have completed 720 days muster roll attendance in four years starting from first day of the Block year of two years and last day of the fourth calendar years, only are considered for regularization".

7. It is the contention of the respondents that as the applicant does not fulfill the requirements of this policy, he could not be regularized in terms of Clause 1 of Terms and Conditions of Engagement of the Office Order No.64 dated 26.06.1996 as quoted in the reply to the applicant's representation.

8. The respondents have further specifically denied that the services of the persons named in the serial nos. 4,5,6,7,8,9,10,11,14,16,17,18,20,21,22 and 23 have been regularized. It is further denied that the services of any other similarly placed divers have been regularized. After filing of the CA by the respondents, the applicant, in his rejoinder, has nowhere controverted the averments made in the CA nor has he mentioned the name of any other person, who according to him, was similarly placed and whose services have been regularized. He has only reaffirmed the claims made in his OA which have been denied by the respondents in order dated 05.08.2013 (Annexure A-1) which is in reply to the representation made by the applicant. The rule with regard to regularization produced by the respondents reads as follows:-

"That as casual/daily wager/temporary workers they will not have any lien on the jobs for which they are being engaged nor will they have any right to be appointed against a permanent vacancy, if so accrues nor will they have a claim for regularization."

9. In view of the above factual situation of the rule regarding regularization of services and the clear cut denial in Para V of the CA that any person similarly placed as the applicant has been regularized. This Court does not find any merits in the claim of the applicant as he is unable to prove the same. The OA is accordingly dismissed. Pending MA No. 680/2019 is also dismissed. No order as to costs.

(Nita Chowdhury)
Member (A)

/1g/