

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A.NO.060/00882/2018

Decided on: 16.10.2019

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Yash Pal Jai Singh

Son of Shri Sushil Kumar,

Age 39 years,

working as Full Time casual Chowkidar

in the office of

Senior Post Master,

Patiala Division, Patiala

(Punjab)-147001.

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Applicant

Versus

1. Union of India through Secretary, Ministry of Information & Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. Senior Superintendent of Post offices, Patiala Division, Patiala-147001.
3. Senior Post Master (Head), Head Post office, Patiala, District Patiala-147001.

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Respondents

**BY: MR. D.R. SHARMA, ADVOCATE, FOR THE APPLICANT.
MR. MUKESH KAUSHIK, ADVOCATE, FOR RESPONDENTS.**

O R D E R (oral)
(BY HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)):

The applicant lays challenge to an order dated 27.7.2019 (Annexure A-1), whereby his prayer for grant of revision of wages, as per 6th and 7th CPC Report, was turned down by the respondents only on the ground that a Writ petition, against the order of this Court, vide which his claim for converting him as Full Time Employee, was pending consideration before the Hon'ble High Court.

2. Largely the facts are not in dispute. Earlier, the applicant approached this Tribunal by O.A. No. 754-PB-2009, against action of respondents in terming him as part-time chowkidar, which was allowed vide order dated 6.12.2010, holding that he was to be treated as casual full-time chowkidar. The respondents were directed to grant him arrears of such wages along with other consequential benefits, though the arrears were restricted to 3 years preceding the filing of the O.A. This order is subject matter of CWP No. 7607/2011 in the Hon'ble High Court. While issuing notice of motion and admitting the Writ Petition filed by the department, the Hon'ble Court has specifically refused to grant stay. The applicant was granted due benefits but when the applicant submitted representations for grant of revised wages on the basis of 6th and 7th CPC Report, the same has been declined vide impugned order, Annexure A-1, hence the O.A.

3. The respondents have filed a reply. They do not dispute about the factual accuracy of the averments made in the O.A. However, they submit that since CWP is pending in the Hon'ble High Court, so applicant is not entitled to the claimed benefit.

4. I have heard the learned counsel for the parties.

5. Mr. Sharma, learned counsel appearing for the applicant vehemently argued that the action of the respondents in not granting revised wages in terms of 6th and 7th CPC recommendations only on the ground of pendency

of indicated CWP is illegal and arbitrary as the Hon'ble High Court has specifically declined stay on operation of order of this Court. Thus, applicant is entitled to the benefit claimed by him.

6. Per contra, the learned counsel for the respondents argued that since CWP against the order of this Tribunal is pending, the applicant cannot be granted any benefit as claimed by him qua revised wages on the basis of 6th and 7th CPC Reports. He was not able to cite any law that if a judicial review is filed and prayer for stay is declined, even then there is any hitch in implementation of the order under challenge.

7. I have given thoughtful consideration to the entire matter. It is not in dispute that when the notice was issued in CWP filed by respondents, the Hon'ble High Court specifically declined request of respondents (petitioners) for stay on operation of order of this Court. Meaning thereby, there is no obstacle in implementation of the order of this Court. Merely, pendency of the CWP cannot be used by respondents to deny the revised wages to the applicant, more so when he is getting un-revised wages on the basis of orders passed by this Court. Even otherwise, the other persons similarly situated like applicant are getting such benefit and merely pendency of CWP cannot be used as a ground to reject his claim. In view of this, the impugned order is declared as illegal.

8. In the wake of aforesaid discussion, this O.A. is allowed. Impugned order, Annexure A-1 is quashed and set aside. The respondents are directed to grant the applicant revised wages as per 6th and 7th CPC Reports, within a period of two months from the date of receipt of a certified copy of this order. The parties are, however, left to bear their own costs.

(SANJEEV KAUSHIK)
MEMBER (J)

PLACE: CHANDIGARH
DATED: 16.10.2019
HC*