

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.97/2017

Dated Tuesday, the 19th day of March, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

K.Ganesan,
Part Time Contingent Night Chowkidar,
Hasthampatti PO, Salem 636 007.

...Applicant

By Advocate M/s P.R.Satyanarayanan

Vs.

1.Union of India,
rep., by Postmaster General,
Western Region, Coimbatore 641 002.

2.The Senior Superintendent of Post Offices,
Salem East Division, Salem 636 001.

3.Assistant Superintendent of Posts,
Salem East Sub Division,
Salem East Postal Division,
Salem 636 001.

...Respondents

By Advocate Mr.K.Kannan

(Order: Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

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

“To call for relevant records and direct the respondents to continue to employ the applicant in his present post and to pay allowances to the applicant as notified by the District Collector of Salem from time to time till 31.12.2005 and at rates as per OM No.2-53/2011-PCC dated 22.01.2015 issued by D.G.Posts, New Delhi along with arrears of allowances as may be applicable with reference to the notifications issued by District Collector, Salem till 31.12.2005 and with reference to OM No.2-53/2011-PCC dated 22.01.2015 issued by the D.G.Posts, New Delhi w.e.f 01.01.2006 along with interest @ 12% p.a and all other consequential benefits and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. It is submitted that the applicant was appointed as a Part time Contingent Night Chowkidhar w.e.f 01.10.1996 under the jurisdiction of the 3rd respondent. He has continued as such till date but is paid only a wage of Rs.118 per day amounting to Rs.3540 per month without any change in allowances for several years. It is alleged that the applicant was entitled to daily wages as notified by the District Collector of Salem from 01.10.1996 to 31.12.2005. From 01.01.2006 he is entitled to the daily wages as notified by the respondents in OM dated 22.01.2015. The applicant accordingly seeks a direction to the respondents to pay the difference in wages as arrears with interest.

3. Per contra, Learned counsel for the respondents would submit that following the decision of the department to outsource such activities as the one in which the applicant was engaged on part time basis, the applicant stood disengaged w.e.f. 13.13.2010. The applicant was being utilized as an 'outsourced' person and allowed to perform the same work. The applicant is, therefore, not entitled to the benefit of the OM dated 22.01.2015 as he is not a direct employee of the respondents. As for the claim for the difference in wages for the time he was admittedly a Part Time Night Watchman directly engaged by the respondents, it is submitted that the applicant was paid at the appropriate rates for the relevant period. As the applicant is no longer with the respondents, no claim could be made against the respondents, it is pleaded. It is further pointed out that the applicant was only performing part time duty and did not come under the category of casual labour and, therefore, could not be paid at the rates fixed by the Collector.

4. Learned counsel for the applicant would, however, produce a copy of the OM of the Ministry of Communications dated 17.05.1989 by which all daily wages working in post offices or in RMS offices or Administrative offices or PSD's/MMS under different designations (mazdoor, casual labourer, contingent paid staff, daily wager, daily rated mazdoor, outsider are to be treated as casual labourers. The casual labourers who were engaged for a period of eight hours a day should be described as full time casual labour and casual labourers engaged for a period of less than eight hours a day should be described as part time casual labourers. All other

designations should be discontinued. The OM was further reiterated by OM dated 17.06.2016.

5. Learned counsel for the applicant would further submit that the applicant would not wish to press the claim for regularization as he is now disengaged and performing the same work as an outsourced employee. He is already 65 years of age. However, the applicant is entitled to the difference of wages between the approved rates and the rates at which he was actually paid. The applicant had been representing from time to time against the underpayment of wages which had, however, not received favourable attention from the competent authority.

6. On perusal of the pleadings it is clear that there is no impugned order disposing of the representation of the applicant for payment of arrears on account of difference in wages. Even the reply filed by the respondents is silent on whether the applicant was paid at the rates fixed by the Collector, Salem District and if not the reasons therefor. Even if the applicant had been engaged only for five hours a day as alleged by the respondents, he must be held to be entitled to the prorata payment of the daily wages as fixed by the Collector for the relevant category unless a different rate had been fixed by the competent authority of the respondents.

7. It is also not in dispute that the applicant was directly engaged as Part Time Night Watchman from 01.10.1996 till atleast 13.12.2010 when he is said to have been disengaged by the respondents. In terms of the

OM of the Directorate dated 22.01.2015, the rates fixed would be effective from 01.01.2006 and clearly the applicant was entitled to payment of arrears at such rates from 01.01.2006 to 13.12.2010.

8. It is also clear that the applicant was covered by the definition of Casual Labourers as contained in OM dated 17.05.1989. Accordingly I deem it appropriate to direct the respondents to consider the grievance of the applicant and pass a reasoned and speaking order with respect to the applicable rates of wages for the period 01.10.1996 to 31.12.2005 as also 01.01.2006 to 13.12.2010, the actual payments made to the applicant during the relevant period and pay the arrears to the applicant of the difference, if any within a period of three months from the date of receipt of a copy of this order.

9. OA is disposed of as above. No costs.

(R.RAMANUJAM)
MEMBER (A)
19.03.2019

M.T.