

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/456/2019

Date of Order: 12.07.2019

Between:

C. Kiran Kumar, Gr. C,
S/o. Sadanand,
Aged about 39 years,
Occ: PTC Watchman,
Somajiguda Deptl. Sub Office,
Hyderabad City Division.

... Applicant

And

1. Union of India,
Rep. by the Secretary to Government of India,
MOC & IT, Department of Post,
New Delhi – 110 001.
2. The Chief Postmaster General,
Telangana Circle,
Hyderabad – 500 001, TS.
3. The Postmaster General,
Hyderabad Hqrs. Region,
Hyderabad– 500 001.
4. The Senior Supdt. of Post Offices,
Hyderabad City Division,
Hyderabad – 500 001, TS.

... Respondents

Counsel for the Applicant ... Mr. B. Gurudas

Counsel for the Respondents ... Mr.B. Rajeshwar Rao,
Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. OA has been filed for not regularizing services of the applicant.
3. Brief facts of the case are that the applicant has been working as PTC Contingent Watchman in the respondents organization from 25.01.1998 vide Memo dt. 20.02.98. His working hours are from 5.30 PM to 6.30 AM of the next day. Therefore, he is working daily for 13 hours. Hence, he made a representation to the respondents on 21.02.2019 for regularization of his services. The request was rejected vide impugned order dt. 25.02.2019 stating that there are no establishment norms to do so. Aggrieved over the same, OA has been filed.
4. Contentions of the applicant are that his working hours are more than 8 hours a day. He has completed 20 years service. In the year 2014, seven similar posts were upgraded to MTS Chowkidar. Similarly, applicant is eligible to be appointed as full time Chowkidar on regular basis on par with other officials.
5. Heard learned counsel for both sides and perused the documents as well as material papers submitted.
6. Respondents have appointed the applicant as Part Time Contingent Watchman vide Memo. dt. 20.02.1998 (Annexure A-I). Applicant has represented vide letter dt. 21.02.2019 that he is working daily from 5.30 PM to 6.30 AM of the next day and his working hours

are 13 hours a day. After conversion, his working hours comes to 8 hours. As such, he is eligible to be absorbed as full time employee. Applicant has also submitted that similar posts of Part Time Contingent Chowkidars were upgraded as Full Time Chowkidars in different post offices as stated at page 5.5 of the OA. Employees working against such posts got the benefit of Full Time Contingent Chowkidar. Applicant being similarly placed, he should also be extended similar benefit. He has also cited the following judicial pronouncements in support of his contention:

(i) Order dt. 11.11.2011 in OA 93-PV-2011 between Sri Gangagaram vs. Union of India, through Ministry of IT, Department of Post, New Delhi:

Held:

11. However, in so far as claim of the applicant for regularization is concerned, admittedly, the applicant was appointed after the cut off date of 10.9.1993 upto which the earlier Scheme of regularization dated 29.11.1989 was applicable. That being so, the applicant cannot be regularized under the said scheme of 1989. However, he is held entitled to be treated as full time Casual Worker (Chowkidar) in view of decisions rendered by this Bench in the case of Moti Ram Vs. Union of India & Others, OA No. 360-HP-1999 decided on 16.5.2000 (Annexure A-11) and Union of India vs. Registrar CAT & Another, CWP No. 662 of 2001 decided on 4.5.2007 (Annexure A-12), by the High Court of HP, Shimla.

12. In any case, it is apparent that the applicant having joined w.e.f. 12.5.1995 had completed 10 years of service 11.5.2005. The DoPT has issued Office Memo dated 11.12.2006, inter-alia, observing that casual workers and persons on daily wages should not be recruited for work of regular nature. The Hon'ble Supreme Court in the case of Secretary, State of

Karnataka & Others Vs. Uma Devi & Others, in para 44 of the judgment dated 10.4.2006 has directed the Union of India/ State Governments to take steps to regularize, as a one time measure, the services of such irregularly appointed persons who are duly qualified in terms of recruitment rules for the post and who have worked for 10 years or more in duly sanctioned posts but not under the cover of the order of courts or Tribunals. The applicant also placed reliance on these instructions. We find that having worked for more than 10 years, the case of the applicant is covered by these instructions and as such deserves to be considered accordingly.”

(ii) Order dt. 16.3.2012 in OA No.832/HR/2011 between Jagadish Roy Vs. Union of India:

“17. Therefore, for the foregoing reasons, having come to this conclusion that the applicant has been working with the respondents for more than 8 hours a day, the Competent Authority is directed to consider the case of the applicant for grant of temporary status by considering him as a Casual Employee working for more than 8 hours a day and also consider him for grant of temporary status under the Scheme dated 16.9.1992 read with instructions dated 30.11.1992 and if found eligible, may be granted consequential benefits from the day he is to be given temporary status and the balance of arrears be paid to him within a period of three months from the date of receipt of a copy of this order.”

As can be seen from the details submitted, applicant is working for 8 hours and also over the last 20 years. Similarly placed employees have been given the benefit of Full Time Contingents. The judgments of the superior judicial forums cited above are in favour of the applicant.

7. In view of the above, respondents are directed to consider the OA as a representation and examine the same in regard to rules and regulations pertaining to absorption of Part Time Contingent Chowkidars

in the context of judicial pronouncements cited in the OA. After examining the same, respondents are directed to issue a speaking and well reasoned order, within a period of 12 weeks from the date of receipt of this order. The OA is disposed accordingly. There shall be no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 12th day of July, 2019

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