

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

O.A.210/00364/2019

Date of decision : June 10, 2019.

Coram: Dr.Bhagwan Sahai, Member (Administrative)
R.N. Singh, Member (Judicial).

Subhash Namdeo Chavan,
R/o.ChatubaiBhaug, Rupasariya,
Chawl No.1, Room No.2,
New Ashok Nagar, Kokni Pada,
Dahisar (East), Mumbai-400 068.

Office Add:-

O/o The Executive Engineer (E),
Civil Construction Wing,
All India Radio,
Doordarshan Kendra, Worli,
Mumbai - 400 025.

.. applicants.

(By Advocate Shri Jeo D'Souza).

Versus

1. The Union of India (Through)
The Director General, DD,
Doordarshan Bhawan,
Mandi House, Copernicus Marg,
New Delhi - 110 001.
2. The Chief Engineer (Civil),
Civil Construction Wing,
All India Radio,
Soochna Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 003.
3. The Superintending Engineer (E),
Civil Construction Wing,
All India Radio,
Doordarshan Kendra, Worli,
Mumbai - 400 025.
4. The Executive Engineer (E),
Civil Construction Wing,
All India Radio,
Doordarshan Kendra, Worli,

Mumbai - 400 025.

5. The Assistant Engineer (E),
Civil Construction Wing,
All India Radio,
DDK, Worli,
Mumbai - 400 025. .. Respondents.

O R D E R (O R A L)

Per : R. N. Singh, Member (Judicial)

Present.

1. Shri Joe D'Souza, learned counsel for the applicant.
2. Heard him.
3. The applicant who is stated to have been working as Casual Worker on daily rate basis since January 1994, has approached this Tribunal by way of the aforesaid OA filed under Section 19 of the Administrative Tribunal's Act, 1985 seeking the following reliefs:

"A. This Hon'ble Tribunal be pleased to direct the Respondent No.3 to regularize the Applicant as directed by Respondent No.2 by his letter dated 03.01.2017.

B. This Hon'ble Tribunal be pleased to direct the Respondent No.4 to provide all supporting and necessary documents as required by Respondent No.3 in his letter dated 15.03.2017 for processing the regularization of the Applicant.

C. This Hon'ble Tribunal be pleased to direct the Respondent No.4 under his competence to regularize the Applicant against the 2 vacant posts of Pump Operators and 4 posts of Khalasi as

done in earlier such cases as directed by Respondent No.3.

D. This Hon'ble Tribunal be pleased to direct the Respondents to grant proforma fixation and seniority to the Applicant at par with his erstwhile juniors on completion of his 240 days and grant all consequential benefits there too.

E. The Hon'ble Tribunal be pleased to direct the Respondents to pay the cost of the application.

F. Any other relief which this Hon'ble Tribunal deems fit in the interest of justice and to which the Applicant is found entitled to may be granted in favour of the Applicant."

4. The grievance of the applicant, in the present OA is that in view of the provisions of DoPT OM No.51016/2/90-Estt(C) dated 10.09.1993, the applicant was eligible and entitled to be considered for grant of temporary status on completion of 240 days. However, the respondents implemented the said OM dated 10.09.1993 selectively in as much as the other similarly placed persons were offered temporary appointment on work-charge basis as Khalasi vide order dated 24.02.2000 (Annexure A-12). However, the applicant had been ignored for being considered for such benefits.

5. The learned counsel for the applicant submits that the applicant has made various representations to the respondents requesting them to

consider the applicant for regularization on a vacant post of Lift/Pump Operator, however, such representation of the applicant is travelling from one respondent to another.

6. The learned counsel for the applicant invites our attention to letter dated 18.01.2016 (Annexure A-20) of respondent no.4 written to the respondent no.3 and the same reads as under:

"No.EEE/MUM/Rept.WC/2015-16/1239

Date: 18.01.2016

The Superintending
Engineer (E),
civil Construction Wing,
All India Radio,
Seminary Hills,
Nagpur-440006.

Sub: Forwarding of application for
regularization in respect of Sh.
Subhash N. Chavan.

Sir,

Kindly find enclosed herewith application along with its enclosures received from Sh. Subhash N. Chavan, contractual/casual lift operator in DDK, Worli, Mumbai, regarding his request for regularization which may kindly be forwarded to the Chief Engineer(c), CCW, AIR, New Delhi for sympathetic consideration.

The contract labours who were working at that time as Sh. Subhash N. Chavan, have been regularized as Work Charged Staff are mentioned below:-

1. Sh. Ramesh Sharma vide order No.SE(E)/NGP/1(6)/2000-S/1272 dtd. 24.02.2000 at Nagpur.
2. Sh. Neelkanth Panka vide order

No.SE(E)/NGP/1(6)/2000-S/1273 dtd.
24.02.2000 at Raipur.
3. Sh. H. B. Rathod vide order
No.SE(E)/NGP/1(6)/2000-S/1274
dtd.24.02.2000 at Rajkot.

However, Sh. Subhash N. Chavan
was left out from regularization/grant
of casual status under similar
circumstances.

He has been giving his service to
the electrical maintenance/Lift
Operator/Pump Operators since 1994. He
got Wireman license/requisite
experience.

His case be considered
sympathetically for grant of casual
status in Doordarshan as aforesaid
work requirement already exists there.

Yours Faithfully,

(I.P.Mishra)
Executive Engineer
(Elect)

Encl: As above."

7. The learned counsel for the applicant also
draws our attention to the respondent's letter dated
18.12.2016 (Annexure A-21) written by the respondent
no.3 to the respondent no.2 and the same reads as
under:

"No.SEE/NGP/CCW/1(4)/205-16/876
Dated 17-18/02/2016

To,
The Chief Engineer,
Civil Construction Wing,
All India Radio,
Soochna Bhawan,
CGO Complex,
Lodhi Road,

New Delhi.

Subject: Forwarding application for regularization in respect of Sh. Subhash N. Chavan (Casual Lift Operator).

Ref: 1) CE, CCW, AIR, New Delhi Letter No. CE/CCW/ND/2012-13/149.

2) EE(E), CCW, AIR, Mumbai Letter No. EEE/MUM/Res.WC/2015-16/687 dated 04.09.2015.

3) vide this office letter No. SEE/NGP/CCW/1(4)/2015-16/536 dated 06.10.2015.

4) EE(E), CCW, AIR, Mumbai letter No. EEE/MUM/Res.WC/2015-16/239 dated 18.01.2016.

Sir,

Enclosed please find herewith the representation along with details received from Executive Engineer (E), CCW, AIR, Mumbai in respect of Sh. Subhash N. Chavan, (Casual Lift Operator), in CCW, AIR, Mumbai, has requested for regularization of service against the available vacant post of Pump Operator/Lift Operator in CCW, AIR, Mumbai.

The contract labours who were working at that time along with Sh. Subhash N. Chavan, CCW, AIR, Sh. Ramesh Sharma Sh. Neelkanth Panka and Sh. H. R. Rathod have been regularized as work charged staff except Sh. Subhas N. Chavan.

Sh. Subhash N. Chavan, was left out from regularization/Casual status although similarly placed with above mentioned persons.

From the records submitted it is seen that he has been giving his service to the Electrical maintenance /Lift Operator/Pump Operator since 1994. He has got Wireman License and requisite experience.

It is requested that his case may be considered sympathetically for his regularization in CCw/Doordarshan as aforesaid work requirement already exists there.

Submitted for further necessary action/direction in the matter please.

L.K.Salgat
SUPERINTENDING
ENGINEER (Elect.)"

8. It is further contended that when no decision was taken by the respondents no.2 and 3 in spite of the letters under reference again the respondent no.4 has written a letter dated 02.11.2018 to the respondent no.3 requesting therein to consider the regularization of the applicant in service of the respondents. The letter dated 02.11.2018 (Annexure A-1) reads as under:

"No.EEE/M/Resp WC/20118-19/989
Dated 02.11.2018

To,
The Superintending Engineer(E),
Civil Construction Wing,
All India Radio,
Nagpur.

Sub: Application for regularization in
r/o Sh. S. N. Chavan, contractual lift
operator at CCW, AIR, Mumbai.

Ref No. SE(E) Letter No.
SEE/NGP/CCW/1(4)/WC Staff/2017-18/488
dated 04.09.2017.

Sir,

With reference to the letter on the subject cited above, it is stated that the procedures adopted

during the appointment of Sh. Ramesh Sharma, Khalasi, and Sh. Neelkanth Panka, Khalasi was on the basis of nominations received by them and Memorandum has been offered to them for temporary appointment on work charged basis as Khalasi by Superintending Engineer (E), CCW, AIR, Nagpur. Sh. Subhash Chavan was also considered for regularization/grant of casual status along with above staff but left out.

Sh. Subhash Chavan also has been giving his services to the electrical maintenance left operator/pump operator since 1994. He has got Wireman License/requisite expertise.

As per letter no.SSW-II-1(5) (6)/15-16/Part-File/05 dated 03.01.2017 the regularization of work charge establishment falls under the competency of the concerned Superintending Engineer (Elect.), as done earlier vide memo No.SE(E)/NGP/1(6)/2000/S/1272-73 dated 24.02.2000 mentioned there and in the line of the same case of Subhash Chavan, his regularization may be considered and processed for appointment with due consideration of CPWD order No.19/176/2004-ECX dated 11.03.2011 as per prescribed procedure rules against the available vacant sanction strength of 03 Nos & 04 Nos post of Khalasi are vacant against sanction strength of 07. (Annexure attached for vacant Post).

Yours faithfully,

(K.G.Goel)
Executive Engineer
(Elect), CCW,
AIR, Mumbai.

Encl: As above."

9. The learned counsel for the applicant

submits that till date no decision has been taken by the respondents about regularization of his service.

10. In the aforesaid facts and circumstances, we are of the view that if the OA is disposed of even at this stage without issuing notice to the respondents in the matter with directions to the respondents to take a final decision ~~in the~~ matter by passing a reasoned and speaking order, no prejudice is likely to be caused to them.

11. In view of the aforesaid, the OA is disposed with directions that the Competent Authority under the respondents shall take a decision with regard to the request of the applicant for regularization and other consequential benefits keeping in view the letters referred herein above by passing a reasoned and speaking order within three months from the date of receipt of certified copy of this order.

12. No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.

JD
18/6

