

22

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.426/2003

New Delhi, this the 30th day of July, 2004

Hon'ble Sh. Sarweshwar Jha, Administrative Member

Rajender Prasad, S/o Sh. Bhauren Lal
Working as a Carpenter
Office of the Executive Engineer
U Division, CPWD, R.K.Puram, New Delhi.
R/o Block A Part-II, H.No.249/5
Sonia Vihar, Delhi - 99.

...Applicant

(By Advocate Sh. Yogesh Sharma
proxy for Sh. U.Srivastava)

V E R S U S

Union of India through

1. The Secretary
Ministry of Urban Development
Nirman Bhawan, New Delhi.
2. The Director General Works
'A' Wing, Nirman Bhawan, New Delhi.
3. The Superintending Engineer
Delhi Kendriya Parimandal
CPWD, New Delhi.
4. The Executive Engineer
U Division, CPWD
CGO Complex, New Delhi.

...Respondents

(By Advocate Sh. D.S.Mahendru)

O R D E R (ORAL)

Heard.

2. The matter in this OA relates to regularization of the services of the applicant who has claimed that he has since passed the test required for such regularization. Accordingly, he has claimed that he should be given the benefit of regularization. Earlier, he had approached this Tribunal vide OA 499/2002 which was decided on 21-8-2002 whereby the respondents had been directed to treat the said OA as a

S. M.

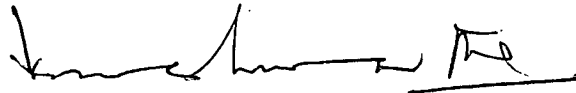


representation made for the purpose of grant of regularization and to pass a reasoned and speaking order thereon.

3. In compliance with the said order, the respondents have since issued a reasoned and speaking order on 1-11-2002, a copy of which is placed at Annexure A-1 to the OA. It is observed that the respondents have undertaken that regularization of services of the applicant would be done in his turn as and when requisite vacancies occur and the ban on direct recruitment is lifted. They have, however, not been able to give any time frame in this regard at this stage.
4. During the course of arguments, the learned counsel for the respondents has drawn attention to the order of this Tribunal as passed on 23-4-2003 in which a reference has been made to the Office Order dated 5-8-2002 whereby a junior to the applicant has been given the benefit of regularization of services in pursuance of the directions of the Tribunal. But the said order, according to the learned counsel for the respondents, is not a part of the pleading nor has a copy thereof ever been produced by the applicant. In this connection, the learned counsel for the respondents has drawn attention to what has been submitted by the respondents in para 5.7 of the counter reply wherein they have mentioned that the person concerned, namely, Sh. Krishan Kumar has been appointed as Beldar on purely temporary basis which is a group 'D' post, whereas, the applicant who is working as a Carpenter, belongs to a group 'C' post. The respondents have also confirmed that Sh. Krishan Kumar has been appointed to the post of Beldar which is a group 'D' post, but he is not to be seen as junior to the applicant as his grade is totally different. It is thus observed that while the case of the applicant that he should be given the benefit of regularization of service cannot be disputed in view of the fact that the respondents have agreed to consider his case and to give him the benefit of regularization as and when there are vacancies in the appropriate grade, I do not see any reason why and how a case can be made out against the respondents at this stage.

S. M.

5. The learned counsel for the respondents has taken me through the orders of this Tribunal as given on 3-12-2003 in which it had been enquired from the respondents whether there was any vacancy as in 1997 in the post of Carpenter against which the applicant could have been considered. He has produced a copy of the letter of the respondents dated 20-1-2004 addressed to him by the respondents in which it has been affirmed by the respondents that there was no post of Carpenter vacant for direct recruitment in the year 1997.
6. Having regard to the facts and circumstances of the case and also keeping in view the undertaking given by the respondents that they will be considering the case of the applicant for regularization of his services as and when there are vacancies in the relevant post, I do not see any cause on the part of the applicant to have filed this OA and, therefore, the same is disposed of as having no merit.



(Sarweshwar Jha)
Member (A)

/vikas/