

9

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2195/2003

New Delhi, this the 19th day of May, 2004

Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Shri S.K.Naik, Member (A)

Bodal Singh
404B, Shipra Suncity, PO Indraprastha
Dt. Ghaziabad, UP .. Applicant

(Shri A.C. Mishra, Advocate)

versus

Union of India, through

1. Secretary
Min. of Urban Development
Nirman Bhavan, New Delhi
2. Director General of Works
CPWD, Nirman Bhavan
New Delhi
3. Executive Engineer
Ghaziabad Central Division
CPWD, Hindon, Ghaziabad .. Respondents

(Shri D.S. Mehandru, Advocate)

O R D E R (ORAL)

Shri S.K. Naik

By virtue of the present petition, the applicant - Shri Bodal Singh - is seeking the grant of higher pay on the basis of work done by him against a higher post. Briefly stated, the facts of the case are that while working as a Daftry in the Office of respondent No.3, the applicant was ordered to obtain standard forms after placing the indent on the store at Calcutta and was also further directed to undertake the local purchase of stationery items after placing supply order on reputed dealer in case of urgency. This work, as per the applicant, did not form part of the charter of duty for a Daftry but pertained to a Work Assistant. Since respondent No.3 had entrusted him this work from

1004

13.11.1987 to 4.4.2000, the applicant made a number of representations for the grant of pay of a Work Assistant which has not been acceded to.

2. Counsel for applicant has referred to the order dated 13.11.1987 passed by the Executive Engineer in which it has been, inter alia, stated as under:-

"(2) All Standard forms shall be obtained by the Daftry after placing the indent of store Calcutta and in case any form urgently required, the same shall be purchased locally after placing the supply order on reputed dealer."

3. According to the counsel, the applicant continued to discharge this function of a Work Assistant which is a higher post than that of the post of a Daftry for thirteen long years and was, therefore, legally entitled to the pay of the higher post, which the respondents have denied despite his repeated representations. In support of his contention, the counsel has relied upon the judgment of the Hon'ble Supreme Court in Jaswant Singh v. Punjab Poultry Field Staff Association & others (2002) 1 SCC 261 and of the Hon'ble Allahabad High Court in Basic Shiksha Adhikari, Ghaziabad v. Smt. Sharda Devi Sharma & others (CWP-1918/85) decided on 8.2.1985.

4. The respondents have contested the case. At the outset, the counsel for respondents has raised a preliminary objection that the application is barred by limitation inasmuch as while the applicant has retired from service on 31.1.2002, the present application has

3/2004

(3)

been filed on 28.8.2003. No justification for the delay has been explained. On this ground alone, the counsel contends that the application is liable to be dismissed.

5. On the merits of the case, the counsel has contended that the claim of the applicant for higher pay is neither admissible nor tenable. His representations have been considered and he has been duly informed that the entrustment of the additional responsibility was in keeping with para 9 of CPWD Manual Volume I. In accordance with the said Manual, the Executive Engineer or higher authorities are authorised to entrust any other work to the staff employed in the correspondence branch. In the case of the applicant, he has been asked to obtain the standard forms after placing the indent from the store at Calcutta and as and when necessary, to make local purchases in case of urgency. This is, no doubt, an additional responsibility given to the applicant while he was posted as Daftry. But to contend that this is the full time job of Work Assistant is not correct as will be apparent from the Office Order dated 13.11.1987 itself. The counsel further contends that this Office Order on which so much reliance is being placed by the applicant, has not been addressed to him. It is an order in general terms for the proper management of the Office. The applicant, therefore, cannot claim any vested legal right accruing to him on the basis of this ~~said~~ order.

6. We have heard the counsel for the parties and perused the records of the case. The claim of the applicant is based on the extra item of work entrusted to him relating to the placing of intend and standard forms

There

(4)

from the store at Calcutta which is the job of a Work Assistant and not that of a Daftry. From a perusal of the order dated 13.11.1987 passed by the Executive Engineer, we notice that the same is an Office Order in general terms in which the procedure for procurement of stationery/standard forms, etc. for maintenance of accounts has been laid down. The division of work is not assigned to any particular individual by name and, therefore, as rightly argued by the counsel for respondents, it would not give rise to any right to the applicant; more so, when it is only one of the many items of work entrusted to a Work Assistant which has been assigned to the applicant as per the CPWD Manual. The applicant has not been posted or asked to officiate against the post of Work Assistant and, therefore, his claim for pay of the post of Work Assistant would not be tenable.

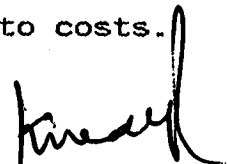
7. Insofar as the judgments cited by the counsel appearing for applicant, we have perused the same. The facts in the case of Jaswant Singh (supra) are totally different. The controversy in that case pertained to the appellant therein having been appointed as Bird Attendant/Hatchery Man, who had subsequently successfully undergone the training of a Chick Sexer. He had also fulfilled the necessary educational qualification, etc. for the post and had been engaged as a Chick Sexer. On the principle of 'equal pay for equal work', the Hon'ble Apex Court had directed the respondents to pay the appellant at the scale of a Chick Sexer. The facts here in the present case are totally different. Similarly, the judgment of Hon'ble Allahabad High Court in Basic

3
Chick

Shiksha Adhikari's case (supra) will also not help the applicant as the same pertained to an Assistant Teacher of a primary school who was posted as an Assistant Teacher in a junior high school on full time basis. The judgment is, therefore, clearly distinguishable, especially in view of the argument advanced by the counsel for respondents that the applicant was never asked to perform the duty of a Work Assistant nor was the full work of a Work Assistant assigned to him at any point of time.

8. In the circumstances, we find that the application is devoid of any merit. It fails and is accordingly dismissed without any order as to costs.


(S.K. Naik)
Member (A)


(Kuldip Singh)
Member (J)

/sunil/