

Chief Justice's Court

Case :- WRIT - A No. - 17631 of 2024

Petitioner :- Ajay Kumar Singh

Respondent :- Union Of India And 5 Others

Counsel for Petitioner :- Agnihotri Kumar Tripathi,Ajeet Kumar Singh,Dheeraj Kumar Pandey

Counsel for Respondent :- A.S.G.I.,Anurag Sharma

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Vikas Budhwar,J.

1. Impugned in the present proceedings at the instance of Ajay Kumar Singh son of Satya Narain Singh (in short the writ petitioner), is an order dated 14.07.2023 of the Central Administrative Tribunal, Allahabad Bench, Allahabad (in short the Tribunal), whereby the Original Application No.173 of 2021 preferred by the writ petitioner for granting temporary Group-D status, regularizing the services and payment of difference of wages was rejected.

2. The facts of the case as projected by the writ petitioner before the Tribunal was that he was engaged as CP Chawkidar by Sub Dn Inspector North Sub-Dn, Bilthara Road, Ballia on 09.05.1994 and though he performed his duties in an uninterrupted manner without there being any break, however, he has not been accorded Group-D status, though juniors to the writ petitioner namely Santosh Kumar Singh and Rajesh Kumar Singh, have been granted temporary status vide order dated 17.11.2009 and 21.11.2009 sidetracking the claim of the writ petition. The writ petitioner claims to have preferred representation/request letters on 21.12.2009 and 15.03.2010, but no decision has been taken. The same led to filing of Original Application No.173 of 2021, *Ajay Kumar Singh Vs. Union of India and 5 others* before the Tribunal, wherein the following relief was sought:-

"Issue necessary order or direction commanding the respondents to provide Temporary Group D Status, Regularized the services and make payment the differences of wages."

3. The original application was contested while filing response by the Postal Department/ respondents herein, to which a rejoinder affidavit was also filed.

4. The Original Application No. 173 of 2021 came up for consideration before the Tribunal on 12.07.2023, on which date, the judgment was reserved and thereafter on 14.07.2023, the Original Application came to be dismissed.

5. Questioning the order dated 14.07.2023 passed in O.A. No. 173 of 2021 the present writ petition has been filed.

6. Sri Agnihotri Kumar Tripathi learned counsel for the writ petitioner has sought to argue that the order of the Tribunal cannot be sustained for a single moment, inasmuch as the Tribunal has misconstrued the entire controversy and has adopted an incorrect approach. Elaborating the said submission, it is submitted that once the writ petitioner was engaged as a contingency paid Chawkidar on 09.05.1994, then in view of the circulars and the policy as applicable from time to time and in vogue, the writ petitioner is entitled to be accorded temporary status followed by regularization and payment of difference in wages particularly when the juniors to the writ petitioners, Sri Santosh Kumar Singh and Rajesh Kumar Singh, who had been engaged much subsequent to the writ petitioner were accorded temporary status.

7. In nutshell, the submission is that the writ petitioner has been meted with discrimination and it is a clear cut case of violation of Articles 14 and 16 of the Constitution of India, thus, the respondents are required to rectify the mistakes while granting benefits to the writ petitioner, as and when the same falls due from the date juniors have been granted. It is

therefore prayed that the order of the Tribunal be set aside and the writ petition be allowed *in toto*.

8. Sri Anurag Sharma, who appears for the respondent/ Postal Department has submitted that the writ petitioner is not entitled to any relief. Submission is that there happens to be a specific bar with regard to the engagement/appointment of contingency paid/ casual labours w.e.f. 01.09.1993, and once as per the own saying of the writ petitioner, he was accorded engagement as contingency paid Chawkidar on 09.05.1994, thus, in view of the policy decision taken by the respondents, the petitioner is not entitled to be accorded temporary status. As regards the issue of discrimination, it is being argued that so far as Sri Santosh Kumar Singh is concerned, he was appointed vide order SPOs Ballia Memo No.D-43/Nirikshan Bhawan/Ballia dated 30.07.1992 as a contingency paid Chawkidar, and he was accorded joining on the said date, but his appointment stood cancelled on 05.11.1992, and thereafter, in compliance of the PMG Gorakhpur's letter No.Rectt/M-14/16/13 dated 24.06.1994, he was again engaged /appointed as CP Chaukidar Sahatwar as retrenched CP employee of Ballia and accorded temporary status w.e.f. 01.01.1996 by order dated 17.11.2009. With respect to Sri Rajesh Kumar Singh, he was also accorded appointment/engagement on 30.07.1992 and was granted temporary status on 23.11.2009 w.e.f. 01.01.1996 in compliance of the order of PMG Gorakhpur dated 20.11.2009.

9. Contention is that the case of the writ petitioner is based on different footing and further both the aforesaid incumbents are not juniors to the writ petitioner

10. We have heard the learned counsel for the parties and perused the records.

11. It is not in dispute that the writ petitioner was appointed as contingency paid Chawkidar on 09.05.1994, which is post 01.09.1993. In paragraph-10 of the counter affidavit filed by the respondents before the

Tribunal a specific averment has been made regarding the appointment/engagement of Sri Santosh Kumar Singh on 31.07.1992 followed by joining on the said date and cancellation of appointment on 05.11.1992 and reappointment on 24.06.1994 as retrenched employee and according of temporary status vide order dated 17.11.2009 w.e.f. 01.01.1996 as well as Sri Rajesh Kumar Singh with respect to his appointment/ engagement on 30.07.1992 and according of temporary status by order dated 23.11.2009 w.e.f. 01.01.1996. The said facts have not been disputed and rather admitted by the writ petitioner in paragraph-17 of the rejoinder affidavit.

12. Interestingly, neither Sri Santosh Kumar Singh nor Sri Rajesh Kumar Singh have been arrayed as party respondent, either before the Tribunal or before this Court and further there is no challenge to the grant of temporary status and absorption.

13. Basically, the writ petitioner is seeking according of the same treatment as being meted to both of them. The crucial question which falls for determination is as to whether the writ petitioner is entitled for temporary status on the face of the undisputed fact that as he was accorded engagement/ appointment on 09.05.1994 as contingency paid Chawkidar post 01.09.1993. Apparently 01.09.1993, is a cut of date beyond which temporary status cannot be accorded as per the circular issued by the respondents themselves.

14. Notably, the said circulars are not under challenge. Once, the validity of the said circular is not under challenge, then it would not be appropriate for this Court to delve into the legality of the same while extending benefit to the writ petitioner. Even otherwise, we find from the pleadings that there has been no factual foundation laid down either before the Tribunal or before us to show that the writ petitioner is on a better/ same footing vis-a-vis Sri Santosh Kumar Singh and Sri Rajesh Kumar Singh.

15. Viewing the case from the four-corners of law, we are of the firm opinion that the writ petitioner has miserably failed to show any manifest illegality committed by the Tribunal, so as to warrant interference in the present proceedings. Resultantly, the present writ petition is **dismissed**.

Order Date :- 12.11.2024

N.S.Rathour

(Vikas Budhwar, J) (Arun Bhansali, CJ)