

**BEFORE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT NO-II, NEW
DELHI**

I.D. No. 207/2019

**Sh. Mahender Pal Singh, S/o Sh. J.S. Rawat,
Through- All India Central PWD (MRM) Karamchari Sangathan,
House No.-4823, Gali No. 13, Balbir Nagar Extension,
Shahadra, Delhi-110032.**

Versus

**The Executive Engineer, C.P.W.D.,
Dehradun Central Division, Dehradun-248001.**

Appearance:-

For Claimant- Sh. Satish Kumar Sharma, Ld. AR.

For Management- Sh. Atul Bhardwaj, Ld. AR.

AWARD

The appropriate government, Sh. V.K. Thakur, Section Officer had sent the reference referred dated 25.07.2019 to this tribunal for adjudication with the following words.

“Whether the workman Sh. Mahender Pal Singh is entitled for grant of regular status having completed 240 days of service for two consecutive years in 1995 & 1996 as per CPWD Departmental manual? If so, what should be the date of effective regularization and what consequential benefits the workman is entitled to? (ii) Whether the workman is entitled for withdrawal of recovery order against him,

pensionary benefits and promotion from Beldar to Mason? If yes, what benefits the workman is entitled to and to what extent?”

Claimant had stated in his claim statement that he was initially appointed on the post of Beldar on 08.09.1994 under the Executive Engineer, Border Fencing Division, CPWD, Jaisalmer. Upon completion of the project of fencing, the services of the workman were transferred under the Garhwal Central Division, CPWD, Srinagar and thereafter, his services were again transferred to Dehradun Central Division No. 1 where at present he was working. The services of the workman was regularized w.e.f. 11.12.2006 vide order dated 11.07.2011. He had completed 240 days of his services in each calendar year. As per CPWD Manual Volume 3, there are clear cut mentioning that the workman whosoever complete the 240 days working in each calendar year he gets the right of regularization on the same post. The management after granting the temporary status have fixed his pay and started to give him regular pay and allowance & other benefits i.e. GPF etc. The above management have given a letter to the workman on 17.11.2017 for intimation that the temporary status granted to him was wrong granted which was after completion of 20 years. At the time of fixation of his pay upon grant of annual increments his pay was fixed as Rs. 28,000/0 from 27,200/- w.e.f. 01.07.2017. The temporary status already granted to him was withdrawn vide order dated 31.01.2018 and his pay was refixed to Rs. 24,900/- against Rs. 28,000/- and also passed a recovery order. The workman objected the same and represented his case before Executive Engineer-Dehradun Central Division-1. The authorized union of the workman represented the case of the workman on 01.11.2018. The workman passed the trade test from Beldar for the post of Mason vide order dated 05.01.2018. He is illegally and rightfully entitled to promoted to the post of Mason and also entitled for grant of ACP/MACPS benefits as per rules. The management have got sanctioned 8982 posts for regularization of casual labourers of the department upon implantation of judgement of **Hon'ble Supreme Court of India** given in the matter of **Surinder Singh & Others V/s. Engineer-In-Chief-CPWD** and thereafter also vacant posts was accumulated on account of retirement/death etc. Hence the workman reserve the right of his regularization since the date of initial appointment. That the management of CPWD had regularized the services of some workmen upon implementation of the order and they

have also been granted the benefits of antedating and their services were declared as regularized since their initial dates of employment i.e. on Muster Roll/Casual Labour. The workman is also entitled for pensionary benefits under Section 14 of Pension Rule 1972 and the management of CPWD have also issued orders in this respect. The management have never given any notice to the workman U/s 9A for changing in his service condition which is clear cut violation of provisions of ID Act 1947 and also comes under the definition of unfair labour practice. The management has never given the reply of workman till date. Hence he has filed the present claim with the prayer to regularize his service from the intial date of appointment with all consequential benefits.

WS has been filed by the management denying the averment made in the claim statement. He submits that claim is not maintainable and is liable to be dismissed.

After completion of the pleadings following issues have been framed vide order dated 23.03.2022 i.e.-

1. Whether the proceeding is maintainable and there exist an industrial dispute between the parties.
2. Whether the claimant is entitled to regularization of his services on completion of 240 days of work for two consecutive years i.e. 1995 and 1996 and if so what would be the effective date of regularization
3. Whether the management can be directed to withdraw the recovery order issued against the claimant and grant him pensionary benefit including promotion to the post of Mason from Beldar and what would be the effective date for the same.
4. To what relief the claimant is entitled to.

Now, the matter is listed for cross-examination of the workman. Claimant has not been appearing for cross-examination since long, inspite of providing a number of opportunities. Workman AR submits that claimant is not in contact with him.

In these circumstances, when the claimant has not been appearing since long to substantiate his claim, it appears that he is not interested to pursue his case. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate

government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date 29th, August, 2024

ATUL KUMAR GARG
Presiding Officer.
CGIT-cum-LabourCourt-II