

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

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Regn.No. OA 1673/89

Date of decision: 25-5-90

Smt. Savitri Devi ..... Applicant

Versus

The Sr. Superintendent of Post Offices ..... Respondents  
South West Division, New Delhi & ors.

CORAM: HON'BLE MR. P. K. KARTHA, VICE CHAIRMAN(J)  
HON'BLE MR. D. K. CHAKRAVORTY, MEMBER(A)

For the Applicant ..... Shri Sant Lal, Counsel.

For the Respondents ..... Shri P.P.Khurana, Counsel.

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble  
Mr. D. K. Chakravorty, Member(A) )

The applicant who has worked as a Sweeper-cum-farash in Hauzkhas Post Office, New Delhi, filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:-

- (i) to quash the impugned order dated 25-7-89 relating to selection and appointment of Smt. Veena (Respondent No.3) as Sweeper-cum-farash in group 'D' cadre;
- (ii) to direct the respondents to make regular appointment of the applicant as Sweeper-cum-farash in Hauzkhas Post Office from the date she became eligible for such appointment after rendering the required service as casual labour; and
- (iii) to grant consequential benefits of seniority and pay and allowances of regular group 'D' employees.

2. The case of the applicant in brief is that she was engaged as Sweeper-cum-farash with effect from 18.1.84 on daily wages against a clear vacancy. She was sponsored by the Employment Exchange. She has

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rendered about 6 years of service. She was due for regularisation on the post but this was not done.

3. Respondent No.1 proppsed to hold selection test for regular appointment to group 'D' cadre of non-test category and invited applications in June 1989. She applied in time and was interviewed on 23-7.89. Respondents, however, selected Smt. Veena who was junior to the applicant and was working only as a part-time Sweeper. Smt. Veena has been ordered to join as Sweeper-cum-farash in Hauzkhas Post Office to replace the applicant. The applicant was relieved on 11-8-89 and directed to work as Extra Departmental Sweeper vice Smt.Veena in Chanakyapuri Post Office. Her grievance is that having rendered about 6 years' continuous service on a clear vacancy of Sweeper-cum-farash in Hauzkhas Post Office, she cannot be replaced by a junior person.

4. Respondents have admitted in their counter-affidavit that the applicant has worked for 5 years 6 months and 24 days as Sweeper-cum-farash in Hauzkhas Post Office from 18.1.84 to 10.8.89. She did not fulfil the prescribed conditions of Educational Qualification for the posts of Group 'D'(Test Category) and, therefore, she was given an opportunity to appear in interview for the post of group 'D'(Non Test Category). They have sought to justify the selection of Respondent No.3 (Smt. Veena) as she was an Extra Departmental Sweeper (Safaiwali) who is eligible for regularisation in preference to casual labourers in accordance with the policy guidelines.

5. We have gone through records of the case carefully and have heard the learned counsel of both parties. The question arises whether an Extra Departmental Sweeper is entitled to any preferential right over casual labour in the matter of regularisation.

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6. Rule 2(b) of the E.D.As(Conduct & Service) Rules, 1964 defines the expression "Extra Departmental Agent". While Extra Departmental Chowkidar has been included in the definition, a Sweeper or Safaiwala has not been so included therein.

7. Respondents have relied upon a circular issued by the Department of Posts on 25-1-88 according to which certain categories of Extra Departmental Agents, who were performing non-postal work, shall be abolished. One such category is Extra Departmental Safaiwala. Respondent No.3( Smt.Veena) belongs to this category. This order was to take effect from 25-1-1988. Respondent No.3 had been appointed prior to the said date. It is stated in the circular that none of the present incumbents of such posts will be discharged and they will be absorbed in the other E.D. categories who perform postal functions as and when vacancies are available.

8. Respondents have <sup>not</sup> brought to our notice any guidelines or instructions by which E.D. Safaiwala or Sweeper is required to be given preference over casual labourer in the matter of regularisation in group 'D' cadre (Non Test Category). In our opinion, having regard to the length of service put in by the applicant as Sweeper-cum-farash she should have been regularised in the said post. Respondent No.3 who had been engaged on a subsequent date is junior to the applicant and cannot have any superior claim for regularisation in group 'D' (Non Test Category).

9. Respondent No.3 has not entered appearance. Nor has she filed any counter-affidavit. The applicant as well as Respondent No.3 belong to the category of low paid employees and it will not be fair and just to quash the appointment of Respondent No.3 in view of the aforesaid findings. It is for the respondents to accommodate Respondent No.3 in a suitable post wherever vacancy

exists.

10. In the light of the foregoing, we set aside and quash the impugned order dated 25-7-89 relating to the selection and appointment of Respondent No.3 as Sweeper-cum-farash for any group 'D' cadre (Non Test Category) and direct the respondents to appoint the applicant on a regular post as Sweeper-cum-farash in Hauzkhas Post Office from the date she became eligible for such appointment after rendering the required service as casual labourer. We further direct the respondents to accommodate Respondent No.3 in a suitable post wherever a vacancy of Sweeper-cum-farash exists. In the circumstances of the case, we do not make any order regarding grant of consequential benefits to the applicant.

11. The application is disposed of on the above lines. Parties to bear their own costs.

*D.K. Chakravorty*  
 ( D.K.CHAKRAVORTY )  
 MEMBER  
 25/5/90

*P.K. Kartha*  
 ( P.K.KARTHA )  
 VICE CHAIRMAN  
 25/5/90