

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01493/2014

HYDERABAD, this the 19th day of October, 2020



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

1. Betala Bhujanga Rao S/o. late B. Katama Raju, aged about 44 years, working as Casual Labourer, Railway Mail Service (RMS), Sub-Record Office, RMS 'V' Division, R/o.D.No.7-77, Chataparru Road, N.P.Raju Colony, Baggayyapeta, Eluru-534 001, West Godavari District.
2. Gujjula Nagaraju S/o. late G.Sahadevudu, aged about 50 years, working as Casual Labourer, Railway Mail Service (RMS), Sub-Record Office, RMS 'V' Division, R/o. S.C. Colony, Koppaka, Sanivarapupeta Post, Pedavegi Mandalam-534003, West Godavari district.
3. Bandi Venkateswara Rao S/o.B. Ramakrishna, aged about 30 years, working as Casual Labourer, Railway Mail Service (RMS), Sub-Record Office, RMS 'V' Division, Eluru, R/o. D.No.6-692, Sri Rama Nagar Colony, Venkatapuram Panchyat, Eluru-534 001, West Godavari District.
4. Valavala Veera Bala Satyam S/o.Jyothir Prakash, Aged about 43 years, working as Casual Labourer, Railway Mail Service (RMS), Sub-Record Office, RMS 'V' Division, Eluru, R/o. D.No.1-213, Andalamma Thota, Kodelu Road, Chataparru Post, Eluru-534 004, West Godavari District.
5. Kusunuri Kasi Viswanatham, S/o. late Koteswara Rao, aged about 53 years, working as Casual Labourer, Railway Mail Service (RMS), Sub-Record Office, RMS 'V' Division, Eluru, R/o. D.No.1168-12-4, Penugopala Swamy Gudi Road, Tanegellamudi, Eluru-534 005, West Godavari District.
6. K. Babu Ram Singh S/o. Babu Ram Singh, aged about 52 years, working as Casual Labourer, Railway Mail Service (RMS), Sub-Record Office, RMS 'V' Division, Eluru, R/o. H.No.37, D.No.24C-6/9, RMS Colony, R.R.Peta, Eluru-534 002, West Godavari District.



7. Koniki Venkata Kanaka Rao, S/o.K. Venkateswara Rao,
Aged about 45 years, working as Casual Labourer,
Railway Mail Service (RMS), Sub-Record Office,
RMS 'V' Division, Eluru, R/o. H.No.2-29, Ragavathi Gardens,
Sanivarapupeta, Eluru-534 003, West Godavari District.
8. Kanaparthi Venkata Suri Babu S/o. late K.Nageswara Rao,
Aged about 55 years, working as Casual Labourer,
Railway Mail Service (RMS), Sub-Record Office,
RMS 'V' Division, Eluru, R/o. D.No.23B-4-48/2,
Subbamma Devi High School Road, Venkata Rao Peta,
Ramachandra Rao Peta, Eluru-534 002, W.G.District.
9. T. Venkateswarlu S/o. late Venkanna,
Aged about 53 years, working as GDS/Mailman,
Railway Mail Service (RMS), Sub-Record Office,
RMS 'V' Division, Eluru, R/o. H.No.13-19-13, Subbaraju Peta,
Nidadavolu, Eluru, West Godavari District.
10. M.Madhavi, W/o M. Appa Rao,
Aged about 43 years, working as GDS/Mailman,
Railway Mail Service (RMS), Sub-Record Office,
RMS 'V' Division, Eluru, R/o. H.No.14-12-10/1, Near Water Tank,
Basvireddy peta, Nidadavolu, Eluru, West Godavari District.
11. M. Mallikarjuna Rao S/o. M. Ranga Rao,
Aged about 46 years, working as Casual labourer,
Railway Mail Service (RMS), Sub-Record Office,
Gurajada Chowk, 'V' Division, Eluru-2,
West Godavari District.Applicants

(By Advocate : Mrs.Rachna Kumari)

Vs.

1. The Union of India, Rep. by
The Director General, Posts,
Department of Posts, Dak Bhavan,
Sansad Marg, New-Delhi.
2. The Chief Postmaster General,
A.P. Circle, Hyderabad – 500 001.
3. The Postmaster General,
Visakhapatnam Region, Visakhapatnam.
4. The Superintendent of Railway Mail Service,
'V' Division, Eluru, West Godavari District.
5. The Sub-Record Officer,
Railway Mail Service, (RMS),
'V' Division, Eluru, West Godavari District.Respondents

(By Advocate : Mr.A.Vijaya Bhaskar Babu, SC for Railways)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The O.A. is filed for granting temporary status and regularisation of the services of the applicants.
3. The brief facts of the case are that the applicants were engaged as casual labour initially at Eluru in RMS VØ division between the years 1989 -2005. They claim that they worked continuously without any breaks. However, they were not granted temporary status nor their services were regularised. Besides, they were not paid wages based on the principle of `equal work-equal pay'. Several representations made to the respondents have not yielded any positive results. Hence, the O.A.
4. The contentions of the applicants are that similarly situated employees in CPWD and Nehru Yuva Kendra were granted the relief of payment of wages on par with regular employees w.e.f. the date employed, by the orders of the Hon'ble Apex Court in Writ Petition (C) No.59-60 - 563-70/1983 & W.P.(1986 AIR SC 584). They also contend that they are eligible for the relief sought based on the Postal Directorate's letter dated 12.4.1991 and also the DOPT Memo dated 10.2.1998 as well as in accordance with the Department of Posts Casual Labourers (Grant of Temporary Status & Regularization)

Scheme of 1993. Similarly situated employees of the respondents organization when they approached the Tribunal in O.A. No.398/1998, were granted temporary status as per the orders of the Tribunal on 25.11.1999. The respondents contested the order of the Tribunal in Writ Petition No.17048/2000 which was dismissed on 17.9.2010. Accordingly, the applicants in OA No.398/1998 were granted temporary status. The applicants claim that they are similarly situated and hence, they should also be given similar benefit. They also contend that the Tribunal disposed the case of similarly situated employees in O.A. No.140/2013 on 20.6.2019 & O.A. No. 936/2014 on 25.2.2020 based on the orders in O.A. No.140/2013.

5. The respondents in their reply statement state that the applicants were engaged and used against vacant posts of Grameen Dak Sevak Mailmen. Similarly, the 8th applicant was used against Part Time Contingent Labour post which was vacant. The applicants were engaged by the SRO, RMS V Division, Eluru and were paid minimum wages as per the orders of the State Govt or based on the orders of Ministry of Labour, whichever was higher. Postal Directorate vide letter dated 15.7.1988 has ordered that no casual labour should be engaged for regular work. Therefore, from the beginning, the applicants were engaged on a need basis for loading and unloading of mails at Railway Stations & Bus Stops. The relationship between the respondents and the applicants is not that of an employee and employer and the work done by them is not of regular nature. The O.A. No. 398/1998 relates to full time casual labour whereas the



applicants are outsiders. Applicants were engaged for 3-5 hours intermittently depending upon the work available and against different vacancies. Therefore, the order in OA No.398/1998 does not apply to the case of the applicants. Besides, wages were paid on an hourly basis. The Department of Posts has introduced the ÷ Casual Labour (Grant of Temporary Status) Schemeø on 12.4.1991. As per the said scheme, the casual labour who are on the rolls of the respondentøs organization on 29.11.1989 and who continue to be employed currently, with a minimum of 240 days of service rendered in an year at the rate of 8 hours per day , are eligible to be considered under the cited scheme. Applicants were not casual labour and hence are not covered under the Postal Directorate Scheme. The Group-D posts have been upgraded to Group-C w.e.f. 1.1.2006 as per VI Pay Commission and therefore, the applicants cannot seek Group-D scale because there is no such post in the department after the VI Pay Commission. The Honøble Supreme Court in Secretary, Ministry of Communication & Others Vs Sakkubai & Another, held that the part time casual labour are not entitled for grant of temporary status. By applying the said judgement cited, the applicants are not eligible. The DOPT scheme referred to by the applicants pertaining to the year 1993 does not apply to their case because of Department of Posts has a separate scheme under which the cases of casual labour are to be considered. More importantly, the applicants are not casual labour and therefore the schemes of DOPT or Department of Posts shall not be helpful to the applicants to seek the relief sought for. In addition, applicants were not sponsored by the Employment Exchange.



6. Heard Smt. Rachna Kumari, learned counsel for the applicants and Sri A. Vijaya Bhaskar Babu, learned counsel for the respondents, and perused the pleadings on record.

7. Applicants claim that they are working as casual labour in the respondent's organization. However, respondents have made it clear that they have been engaged as outsiders for work, which is of intermittent nature. Applicants have not submitted any document which would prove that they have been appointed as casual labour. In fact, they are being paid daily wages based on the rate fixed by the State Govt. or the Central Govt. Applicants are not covered by any of the schemes of Department of Posts formulated in 1991 or by the schemes of the DOPT framed in 1988 & 1993 for the reason that the applicants are not engaged as casual labour. Respondents have cited the judgement of the Hon'ble Supreme Court in Secretary, Ministry of Communication & Others Vs Sakkubai & Another and by applying the same to the case of the applicants, it would be difficult to consider grant of relief sought. Applicants are rank outsiders engaged by the respondents for seasonal work depending on its availability. OAs cited by the applicants are of no help to the applicants since applicants were not engaged as casual labourers by the respondents. Other averments made by the applicants have been gone through and we found them to be irrelevant considering the facts and circumstances of the case. However, taking into consideration, the long years of service rendered by the applicants, this Tribunal in O.A. No.140/2013 & 936/2014 directed the respondents to fill up the GDS vacancies. The operative



portion of the order passed in OA No.936/2014 dated 25.2.2020 is reproduced hereunder:



“.....directing the respondents to take steps to fill the vacancies of GDS in Visakhapatnam RMS V Division, in accordance with the prescribed procedure, under the relevant rules and to consider the case of the applicant and all other similarly situated persons, if necessary, by granting age relaxation to the extent of the service rendered by them, subject to the maximum that is stipulated in the relevant Government orders. This exercise shall be completed within a period of six months from the date of receipt of a copy of this order.”

As the Co-ordinate Bench has already expressed a view in regard to the issue, this Bench respectfully agrees with the same and directs the respondents to take action as was directed in O.A. No.936/2014 referred to. The time granted to comply with the order is 6 months from the date of receipt of this order.

With the above direction, the O.A. is disposed of with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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