

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/502/2020

HYDERABAD, this the 11th day of September, 2020

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



Smt. G. Vijayalakshmi, Group. C,
W/o.G. Ramamurthy,
Aged about 59 years,
Occ: Sub Postmaster,
Yerramukkapally, S.O - 516 004.
Cuddapah Division.

... Applicant

(By Advocate: Mr. M. Venkanna)

Vs.

1. The Union of India rep. by its
Secretary,
Government of India,
Ministry of Communications and I.T,
Department of Posts – India,
Dak Bhavan, Sansad Marg,
New Delhi – 110 001.
2. The Chief Postmaster General,
A.P. Circle,
Vijayawada – 520 001.
3. Director of Postal Services,
O/o. the Postmaster General,
Kurnool – 518 001.
4. The Superintendent of Post Offices,
Cuddapah Division,
Cuddapah – 516 001.

... Respondents

(By Advocate: Mr D. Radha Krishna, Sr. PC to CG)

ORDER (ORAL)**Hon'ble Mr. B.V. Sudhakar, Admn. Member**Through Video Conferencing:

The present O.A. is filed seeking a direction to the respondents for regularization of the services of the applicant from the date of her initial engagement as a Reserved Trained Pool Assistant from 6.1.1983 to 27.11.1989.

2. The brief facts of the case are that the relief sought by the applicant is covered by a series of judgements passed by different Benches of this Tribunal over the years from 1990-2010 as indicated in the O.A. In particular, the applicant is banking upon the common order issued by the Ernakulam Bench in OA No.110/2013 wherein a reference has been made to the judgement of the Hon'ble Supreme Court in Civil Appeal No.5730/2005 decided on 9.6.2006 wherein it has been held that the benefits of regularization of the services of the Reserved Trained Pool Assistants shall be granted with all consequential benefits. Near at home, this Tribunal allowed similar O.As bearing No.819/2013 & 780/2013 dated 15.4.2015 and also O.A. No.1510/2013 dated 23.10.2019. The applicant was appointed as Reserved Trained Pool on 06.01.1983 and her services were regularized on 29.11.1989. The relief sought for by the applicant is squarely covered by different judgements of various Benches of this Tribunal and also by the superior judicial forums and hence the respondents have to regularize the services of the applicant as well and since they have not done so, the present O.A. is filed.

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3. The contentions of the applicant are that this Tribunal in O.A. No.82/1986 was pleased to direct absorption of the applicants against regular post to be done in a phased manner on the basis of para 2 of the Circular dated 30.10.1980, as if no restriction has been imposed on their regular engagement/ absorption earlier and the same shall be completed in a reasonable period from the date of order, if necessary, by creating supernumerary posts, subject to screening of the unfit by a specially constituted screening committee, by examining the records and performance. This would mean that the reserved Trained pool candidates shall be entitled for absorption with effect from the date of occurrence of the vacancy in the next recruiting year. Therefore, the applicant is eligible to get her services regularized in the next recruiting year i.e. 1983. The respondents are not permitted to wrongly interpret the judgement of the Hon'ble Supreme Court in UOI Vs K N Siva Das. In the said judgement it was observed by the Hon'ble Supreme Court that the RTPs are governed by their own scheme and the benefit of absorption has to be extended as per the said scheme. The only observation made therein was that the RTPs should not be regularized on par with the casual labourers because the services of both the categories are different. In contrast, the Jabalpur Bench of this Tribunal has given a clear judgement that the ban on recruitment should in no way stand in the way of regular absorption of the RTPs against the regular vacancies available.

4. Coming to the implementation of the Time Bound One Promotion Scheme, the Hon'ble Supreme Court has declared that the scheme did not



mandate completion of regular service. It was made clear that adhoc/temporary service is also to be taken into account for grant of TBOP promotion. The grievance of the applicant is that the service rendered by her was not taken into consideration for grant of TBOP. The law is well settled that benefit of a judgement is to be extended to all similarly placed officials. In the instant case, the Tamil Nadu Postal Circle has extended similar relief to RTPs working in the said Circle in respect of financial up gradation under TBOP scheme. The respondents have naturally to extend the same benefit to the applicant as well, as per law. The other contention of the applicant is that she has not been appointed through a back door method as RTP. The appointment was pursuant to a regular selection procedure. The applicant has undergone pre-appointment training which is given for those who have been regularly appointed. She was paid similar pay as was paid to the regular employees. The nature of duties of RTPs is also the same as that of regular employees. Therefore, respondents cannot state that the services of RTPs cannot be regularized. The applicant also contends that the decision of UOI Vs KN Siva Das was obtained by the respondents, by suppressing the facts in regard to the judgement of the Jabalpur Bench and the Hon'ble Apex Court dismissing the SLP No.11313/1987 preferred by the department. The dismissal of the aforesaid SLP was on 11.6.1988 and the final order in K.N. Siva Das case was on 21.4.1992. Hence, it is clear that the respondents were well aware of the dismissal of the SLP and also of the Jabalpur Bench judgement which were not brought notice of the Court in K.N. Siva Das case. The principles of *res judicata* will not apply to this case as it is well settled law that principles of *res judicata* will not act as a bar in cases where judgements were obtained by suppressing the facts.

5. Heard Sri M. Venkanna, learned counsel for the applicant and Sri D. Radhakrishna, learned Counsel for the respondents and perused the pleadings on record.



6. The case of the applicant is to regularize her services from the date of her induction as Reserved Trained Pool candidate in the respondent's organization till the date of her regularization as a regular Postal Assistant. The applicant cited a number of O.As which have been allowed by different Benches and also the order of the Hon'ble Supreme Court in Mathivanan case. In view of the above, the case of the applicant is squarely covered by the judgement of the Hon'ble Supreme Court and also by the superior judicial fora, in all respects. The respondent's contention is that in Mathivanan case, the applicant therein was an APS employee who was regularly engaged, whereas the applicant was intermittently engaged as RTP. All these aspects were gone into in different OAs cited by the applicant in the O.A., which were allowed. Hence, it may not be necessary for the Tribunal to go through the same details and come to the same conclusion. The orders of the co-ordinate Bench have to be abided as per the Hon'ble Supreme Court's judgement in S.I. Rooplal & Anr. vs Lt. Governor Through Chief Secretary, Delhi & Ors, dated 14th December, 1999 in Appeal (Civil) Nos.5363-64 of 1997.

7. In view of the above, respondents are directed to dispose of the O.A. in similar lines as was allowed by the different Benches of this Tribunal in accordance with the rules on the subject and the law laid down. The time

period allowed to implement this order is five months from the date of receipt of this order.

With the above direction, the O.A. is disposed. No order as to costs.



(B.V. SUDHAKAR)
MEMBER (ADMN.)

(ASHISH KALIA)
MEMBER(JUDL.)

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