

(8)

Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-2998/91

Date: 15.1.1993.

Shri Roshan Lal & Others Applicants

versus

Union of India through
Secretary, Ministry of
Communications & Crs. Respondents

For the Applicants Shri Atul Vadhwa, Advocate

For the respondents Shri J.C. Madan, Proxy Counsel
for Shri P.H. Ramchandani,
Senior Counsel.

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

There are 22 applicants in this application who have worked as daily-wage Postmen under the respondents for various periods since 1980/1983 and they are continuing even today in that capacity. They have prayed in this application that the respondents be directed to modify the scheme prepared by them for regularisation of the services of casual labourers, that they be granted temporary status on the posts on which were working and that they be given all the benefits enjoyed by temporary Government servants.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. On 17.12.91,



the Tribunal passed an interim order to the effect that in case the respondents wish to fill up the posts of Postman, they should keep 22 posts vacant. The interim order has, thereafter been continued till the case was finally heard on 8.1.1993 and orders reserved thereon.

3. The applicants have annexed to their application a copy of the judgement dated 18.5.1990 in OA-2179/89 (Shri Mavlesh Kumar and 24 others Vs. Union of India and Others) in which the applicants had prayed for regularisation of their services in Group 'D' posts. The Tribunal directed the respondents to consider the case of the applicants for regularisation in accordance with the scheme to be prepared by them as per the directions of the Supreme Court in the case of Daily-rated Casual Labourers Vs. Union of India, A.I.R.1987 S.C. 2342. The respondents were also directed to give to the applicants at least the minimum pay in the pay-scale of regularly employed workmen till their absorption in regular posts. Such of those applicants as fulfilled the requisite qualifications for regular appointment under the Recruitment Rules, should be considered for appointment in accordance with the Rules. ✓

4. The admitted factual position ^{in the instant case} is that the applicants were engaged as daily-wage Postmen. They are being paid on the basis of the minimum of the scale w.e.f. 9.2.1986. They



are also being paid H.R.A./C.C.A. w.e.f. 9.4.1987 calculated on the basis of the minimum of the revised scales plus D.A. admissible under the Rules.

5. The respondents have prepared a scheme for regularisation of casual labourers entitled 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. What the applicants are praying for in the present application is that having regard to their long period of service in the posts of Postman, they should be regularised in the said posts. For the said posts, the respondents have made Recruitment Rules entitled 'The Indian Posts & Telegraphs (Postmen/Mailguards) Recruitment Rules, 1969, according to which, the post has been classified as non-gazetted ministerial post. The educational and other qualifications required for appointment is middle school pass from a recognised Board. The method of recruitment is 50 per cent by direct recruitment and 50 per cent by promotion, failing which, by direct recruitment. Permanent/quasi-permanent Class IV officials who qualify in a departmental test, are eligible for promotion to the extent of 50 per cent of the posts.

6. The learned counsel for the applicant argued that in the case of Daily-rated Casual Labour employed under the P & T Department, the Supreme Court had dealt with not only the case of casual labourers, but also of all the categories



of workers, namely, unskilled, semi-skilled and skilled. It is true that the Supreme Court has referred to these three categories in para.1 of its judgement. However, in the operative part of the judgement, wherein the respondents have been asked to prepare a scheme, the direction is confined to only the case of casual labourers, as is clear from the following:-

"We, therefore, direct the respondents to prepare a scheme on rational basis for absorbing, as far as possible, the casual labourers who have been continuously working for more than one year in the Posts & Telegraphs Department".

6. The post of Postman is a Group 'C' post for which recruitment rules exist, as already stated above. Regular Class IV staff who qualify in a departmental test and fulfil the essential qualifications, are eligible for promotion to the promotion quota of Postmen which is to the extent of 50 per cent. For direct recruitment to the extent of 50%, they can also apply.

7. In the instant case, the respondents have stated that the applicants did not appear in Group 'D' Examination in 1991 even though they were given a one-time age/Employment Exchange sponsorship relaxation. There is nothing ^{on record} to disbelieve this version. According to the respondents,

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the applicants are working against leave vacancies of Postmen for short periods.

8. In our opinion, appointment to the posts of Postman on regular basis being governed by statutory recruitment rules, the scheme prepared for regularisation of casual labourers cannot be modified as prayed for in the application. Admittedly, the respondents have given to the applicants all the benefits envisaged in the scheme for the casual labourers who have been granted temporary status. Their regularisation in Group 'D' posts and appointment to Group 'C' posts would depend on the availability of sufficient number of vacancies and in accordance with the relevant rules and instructions issued by the Government. In the facts and circumstances, we direct that they shall be given more opportunities to pass the required examination. The application is disposed of accordingly. The interim order passed on 17.12.1991 is hereby vacated with the aforesaid observations. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 15/1/93
Administrative Member

P.K. Kartha
15/1/93
(P.K. Kartha)
Vice-Chairman(Judl.)