

Oval Terminal (50) IN THE

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
XXX-XXXX-XXXX-XXXX

O.A. No. O.A./617 1988
Exhibit

DATE OF DECISION

11/6/1991

Vijayben w/o of Kapilchandra Petitioner

Mr.A.N.Vora

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr.P.M.Raval

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. H. M. Singh

• Administrative Member

The Hon'ble Mr. R.C. Bhatt

Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal? No

Vijayaben w/o of Kapilchandra
Bhogilal Shah, Naria Pada,
Dana Bazar, Petlad, Dist. Kheda.
(Advocate: Mr.A.N.Vora)

: Applicant

Versus

Union of India
through:

1. Post Master General, Gujarat Circle, Opp. Aayakar Bhavan, Ahmedabad.
2. Superintendent of Post Offices, O/O Superintendent of Post Offices, At Anand, Dist. Kheda.
3. Post Master, "Petlad Post Master", Head Post Office, Petlad, Dist. Kheda. : Respondents

(Advocate: Mr.P.M.Raval)

J U D G M E N T

O.A. 617/88

Date: 11/6/91

Per: Hon'ble Mr. R.C.Bhatt

: Judicial Member

1. The applicant has made this application under Section 19 of the Administrative Tribunals Act, 1985 challenging the oral order passed by the respondents against the applicant on 27th September, 1988 terminating her services in Class IV labour at Petlad, District Kheda. It is alleged by the applicant that she was appointed in Class IV labour in Postal Department at Petlad district on 5th February, 1988, then her appointment was in a vacant post which was not filled in since 1983. She has alleged in the application that she has enrolled her name at Sr.No.210 from the year 1985 in Employment Exchange Office, Nadiad, Dist. Kheda. According to the applicant, her name is mentioned in the muster role from the date of appointment, that there was no compliant nor any notice given to her for any fault of her in service. She has alleged in the application that since February, 1988 upto the date of her oral termination i.e. upto 27th September, 1988 she has worked for 235 days. The reason for her oral termination as alleged in the application is that at the time of inspection performed by S.S.P.S., Kheda of Anand by the Supdt., the inspector had advised that

there is one EDDA Devalpura who has illwill against the present applicant for the said post and her service should be terminated. According to her, this advise was given by the Inspector to Respondent No.3, that on the strength of this advise the respondent No.2 Superintendent of Post at Anand issued order to Postmaster of Petlad to terminate the applicant's service and ultimately the service of the applicant were terminated verbally. It is alleged that no notice has been given to her and she is a poor widow lady, that she performed her duty regularly and efficiently and there was no real and reasonable cause to terminate her service but the only cause for her verbal termination seems to be that EDDA of village Davalpura did not wish that she should serve.

2. The respondents have filed written statement contending that due to ban on recruitment, the work of absentee was managed by engaging outsiders, that the applicant was engaged as an outsider since February, 1988 and no regular appointment was given to her but she was engaged by way of oral order. It is further contended that as per the departmental rules and orders from the DGP & T New Delhi No.47/31/72-SBP dated 7.12.1972 conveyed under the P.M.G. Gujarat Circle, Ahmedabad dated 12.12.1972 and subsequent instructions issued from the P.M.G. Ahmedabad under letter dated 23.9.1987, Extra Departmental Delivery Agent attached to the particular unit to be considered for the appointment in an unapproved capacity in preference to an outsider. The respondents have produced these two documents which support their case.

3. The respondent No.3 did not follow the said instructions and engaging the applicant as an outsider in Group 'D'. It is contended that during the course of the inspection of Petlad Low Selection Grade Office in September, 1988, the Extra Departmental Delivery Staff attached at Petlad Sub-Office, made a grievance to the

Senior Superintendent of Post Office, Kheda Division at Anand that they were ignored for appointment in Group 'D' and instead a pure outsider had been taken. It is contended that there were many Extra Delivery Staff persons who are working in the said office for doing the work of Group 'D'. Therefore, it was necessary and desirable that a person working as such should be given an opportunity to work as Group 'D' employee in the said sub-post office. Thus the main contention of the respondents is that in view of the grievance by the EDDA group 'D' employees it was necessary to give a chance to one of such persons who were already in service instead of engaging an outsider. If, the respondent No.3 finds that there is need then he to have a group 'D' employee is entitled to engage amongst the EDDA staff and it was in the light of this position that the applicant's services were discontinued. It is further contended that for regular employment, the procedure according to Recruitment Rules have to be followed by inviting names from the employment exchange, by holding test/examination etc. even EDD agent who desires to get appointment in group 'D' has also to pass through the test/examination etc. prescribed by the department, and therefore the regular appointment is not a matter of course but it is to be made after following proper procedure according to the rules. The respondents have denied that the appointment of the applicant had been sanctioned by the Superintendent of Post Office, Kheda at Anand division as alleged. It is also denied that the applicant has worked for 235 days. It is contended that the applicant has actually worked for 192 days. It is also contended that in the inspection note, the respondent No.2 had made observation that the engagement of the applicant would not be continued and it was suggested that if the respondent No.3 desired to have a service of any group 'D' employee, he should make arrangement from the Extra Departmental Delivery staff persons instead of engaging outsider.

4. The applicant has filed rejoinder contending that the applicant has a right to continue as she was appointed in a vacant post. The applicant has produced at Annexure-A a copy of the application dated October, 1988 to the Postmaster General that she should be continued in service and Annexure-B is the xerox copy of the employment card dated 24th September, 1985 while Annexure-C is school leaving certificate. The applicant has controverted the averments made by the respondents in the reply.

5. After hearing the learned advocates for the parties, it is clear that the applicant is an outsider. There is no order of appointment made by the respondents in favour of the applicant. Even if it is held that the applicant worked as an outsider in Class IV labour, the question is whether her oral termination by the respondent was illegal and proper. The documents which have been produced by the respondents in this case show that as per the departmental rules and orders from the DGP & T New Delhi No.47/31/72 SBP, dated 7.12.1972 on the subject of the appointment of unapproved candidate in post man, Mail guards and Class IV cadres in postal and RMS branches where an extra departmental agent is available there is no objection to his appointment in the vacancy of postman/class IV in unapproved capacity on daily wages in preference to an outsider. The other letter from PMG, Ahmedabad dated 23rd September, 1987 in continuation of the previous letter Extra Departmental Agent attached to the particular unit should be considered for the appointment in an unapproved capacity in preference to an outsider. The respondent No.3 did not follow the said instructions and engaged the applicant as an outsider in group 'D'. It was only at the time of inspection in ^{it} September, 1988/ was found on the grievance made by the EDD staff attached at Petlad sub-office to the Senior Superintendent of Post office, Kheda, Division at Anand that they were ignored appointed for being in group 'D' and instead ~~xx~~ pure outsider had been taken. When many EDD staff persons who were working in the

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said office for doing work of Group 'D' are available they should be given an opportunity to work as Group 'D' employee in the said sub-post office. It was under these circumstances that the services of the applicant who was purely an outsider was orally terminated. The fact that her name was already listed in the employment exchange does not confer any right to continue in this post nor the number of days 192 or 235 as the case may be gives her any right to continue to this post because even a EDD agent who desires to get appointment in group 'D' has also to go through the test/examination prescribed by the department. There was no justification to continue the engagement of the applicant because if the respondent No.3 desires to have a service of any group 'D' employee, he has to make arrangement from the EDD staff persons instead of engaging outsider, and the grievance was already made by EDD staff attached at Petlad sub-office that they were ignored for appointment in Group 'D'.

6. In this view of the matter, the application has no merit and the applicant is not entitled to any relief. We do not see any illegality committed by the respondents in discontinuing the applicant who was purely an outsider.

7. The result is that the application is dismissed with no orders as to costs.

R.C.Bhatt
(R.C.Bhatt)
Judicial Member

M.M.Singh
(4/8/93)
(M.M.Singh)
Administrative Member