

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

OA/436/93

Date of Decision: 12.05.2000

Shri Bharat P Joshi : Petitioner (s)

Mr.P.K.Handa : Advocate for the petitioner(s)

Versus

Union of India & Ors. : Respondent(s)

Ms.P.B.Sheth : Advocate for the Respondent(s)

CORAM

The Hon'ble Mr.V.Ramakrishnan : Vice Chairman

The Hon'ble Mr. A. S. Sanghavi : Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment? ~
2. To be referred to the Reporter or not? ~
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal? ~

Shri Bharat P.Joshi,
Working as Part time Pump Operator
In the office of the Post Master General,
Vadodara Region, Vadodara.

: Applicant

Advocate: Mr.P.K.Handa

Versus

1. Union of India
Owning & represented by
Director General,
Ministry of Communication, Department
Of Posts, Dak Bhavan,
Sansad Marg,
New Delhi

2. Post Master General,
Vadodara Region,
Vadodara.

3. Director,
Postal Services,
Vadodara Region,
Vadodara.

: Respondents

Advocate: Ms.P.B.Sheth

ORAL ORDER
OA/436/93

Date: 12.5.2000

Per: Hon'ble Mr.V.Ramakrishnan : Vice Chairman

Heard Mr.P.K.Handa for the applicant and Mrs.P.B.Sheth
for the respondents.

2. The applicant was working as Part time Pump Operator in
the Postal Department and has been working as such from 16.7.87.
He has sought for a direction to the respondents to regularise his
services in Group 'D' post as he has fulfilled all the conditions as

stipulated by the Ministry of Communications. There is also a reference to the scheme for the casual labourers (Grant of temporary status and regularisation ^{seen}), forwarded by the Ministry of Communications dated 12.4.1991.

The respondents have taken the line that the applicant was not a full time employee as he was not working over 8 hours and as such he is not entitled to the benefits of regularisation as per the scheme.

3. The applicant had drawn our attention to the decision of full Bench of this Tribunal in the case of Smt. Sakubhai & Others vs. the Ministry of Communications, New Delhi . The full Bench had held that the benefit of the scheme can be extended even to part time employees by appropriate increase in the quantum of service put in by them.

4. Mr.Handa says that subsequently the department has filed an SLP before the Hon'ble Supreme Court against the decision of the Full Bench ~~judgment~~ and the Supreme Court reversed the decision of the Full Bench and therefore, the benefit of the scheme cannot be extended to part time employees. Mr.Handa now submits that there is a further decision of the Department of Post by letter dated 29.9.97 that the applicant's working hours as Pump Operator had been increased from 5 hours to 8 hours with effect from 1.9.97. A copy of this letter is taken on record. According to Mr.Handa the applicant is now a whole time employee his case assumes different complexion and he should be considered in terms of the relevant scheme. Mr.Handa states that the scheme dated 12.4.91 referred to earlier stipulates that a person who ^{was} were in employment as on 29.11.89 and who continued to be currently employed and rendered

continuous service of at least one year is entitled to the scheme. It does not say that person should be a full time employee .

5. We have considered the rival contentions and have also gone through the materials on record. While disposing of the SLP the Hon'ble Supreme Court has given certain directions which will apply to the part time employees. It had referred to some other circular dated 7.6.88. Mr.Handa says that as the applicant has *service* entered into the service on full time basis he would be entitled for the scheme on completion of the prescribed period. This aspect should also be kept in view by the respondents while taking the decision in this regard. In the light of the above position, we direct the respondents to examine the case of the applicant in terms of the relevant circulars dated June, 88 and also take into account the subsequent development that he has entered the service on full time basis and come to an appropriate finding. This exercise should be completed within three months from the date of receipt of a copy of this order and the decision in this regard should be intimated to the applicant soon thereafter.

6. With the above direction, the OA is finally disposed of. No costs.


(A.S.Sanghavi)
Member(J)


(V.Ramakrishnan)
Vice Chairman

