

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. No. 282 OF 1991

Cuttack this the 9th day of November 1995.

GURUDUTTA SAMAL	Applicant
-Versus-			
UNION OF INDIA AND OTHERS	Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? No.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? No.


(P. SURYA PRAKASHAM) 20/10
MEMBER (JUDICIAL)


(H. RAJENDRA PRASAD) 20/10
MEMBER (ADMINISTRATIVE)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 282 of 1991

Cuttack this the 9th day of Nov. 1991

CORAM:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER(ADMN.)

&

THE HONOURABLE MR. P. SURYA PRAKASHAM, MEMBER(JUDL.)

Gurudutta Samal, 30 years,
S/o. Alekh Ch. Samal,
Resident of Ranihat Gopalsahi,
PS. Mangalabag, Town/Dist. Cuttack,
at present working as Postal Assistant,
GPO, Cuttack-1.

... Applicant

By the Applicant ... Mr. Pradipta Mohanty, Advocate.

Vrs.

- 1) Union of India represented by
the Director General (Posts),
Dak Bhawan, Ashok a Road,
New Delhi-110001.
- 2) Chief postmaster General,
Orissa Circle, Bhubaneswar,
District-Khurda.
- 3) Superintendent of Post Offices,
Cuttack North Division, Cuttack,
Dist-Cuttack-1.
- 4) Senior Superintendent of Post Offices,
Cuttack City Division, At-Cantonment Road,
Cuttack, Dist. Cuttack. ... Respondents

By the Respondents ... Mr. Ashok Mishra, Senior Standing
Counsel (Central).

ORDER

H. RAJENDRA PRASAD, MEMBER(ADMN.): The applicant, Shri Gurudutta Samal,
was recruited on 6th November, 1982, as a short-Duty Postal
Assistant in Cuttack North Postal Division under the scheme
of constituting a standing pool of trained reserve candidates

for Post-and RMS-Offices introduced by the Department of Posts in October, 1980. He was imparted training before being attached to Kendrapara Head Post Office. In September, 1986, he was reallocated to Bhubaneswar Postal Division in the same capacity and was absorbed regularly in the cadre of Postal Assistant in December, 1986, in the said Division. The applicant is now working in Cuttack GPO.

2. In this application, he claims the "arrears" of pay and allowances, service seniority and other benefits available to regular Postal Assistants for the period he worked as Reserved Trained Pool short-duty Postal Assistant from 1982 till his regular absorption as Postal Assistant in December, 1986.

3. The reliefs claimed by him are based on the ground that he was performing duties which are identical and assumed to those performed by regular Postal Assistants, ~~at~~ the same degree of responsibilities.

4. The applicant has relied upon the judgment of Jabalpur Bench of this Tribunal on 16th December, 1986 in O.A. of 1986. Shri Pradipta Mohanty argued vociferously that the applicants have been the victims of gross exploitation and discrimination in the matter of their employment and wages. He asserted that the issue has already been settled by the Jabalpur Bench of the Tribunal and the same is applicable to the present case as well.

5. The respondents in their counter-affidavit submit that the scheme of bringing into existence a reserve pool of trained candidates was introduced as a part of their ongoing effort to reduce the gap between the occurrence of vacancies in Post-and RMS-Offices and the placement of approved, trained candidates in position against those vacancies. This was done against the fact that the smooth flow of work had been considerably hampered by staff-shortages due to large absenteeism and some other causes, and since overtime arrangements had been found inadequate to cope with the problem. For this purpose, the usual educational standards (in terms of marks secured by a candidate at HSC examination as the basis of merit) were lowered in respect of RTP candidates. This was in the sense that the RTP candidates were drawn from a segment of 50% of reserve list candidates prepared over and above the actual requirements. Thus a candidate recruited under the RTP scheme had considerably less merit than those recruited as a regular Postal/Sorting Assistant under the normal recruitment processes.

6. Shri Ashok Mishra, the learned Senior Standing Counsel for the respondents, mentioned during the hearing that the candidates recruited under the RTP scheme were given a shorter and abbreviated training prior to their deployment when compared to regular PAs recruited by normal

recruitment procedures. Also, a RTP candidate had normally no frequent or periodic transfer liability after his initial attachment to a Post or Mail Offices unlike PAs/SAs who were liable to such transfers. Importantly, the candidates recruited for the Reserved Trained Pool were exempted from performing duties which carried monetary responsibility/liability. Thus, they were never deployed to work in any post office counter involving cash transactions, like, for example, Money Order booking, Savings Bank, and the booking of insured articles, Sub-Accounts or Savings Certificates work. Similarly, they were not detailed to perform duty in the Registration Section of a Sorting Mail Office since that might needlessly involve the RTPs in avoidable involvement or responsibility in case of losses. They ~~were~~ not called upon to perform cash disbursement duties or any duties involving cash transactions both with the public or within the office. They are also not deployed to take charge of any post office in cases of CL/EL granted to SPMs of departmental Sub Post Offices.

7. The learned Standing Counsel added that the Department had maintained a clear distinction between the regularly recruited Postal/Sorting Assistants (in matters of merit) and the RTP candidates at the time of intake, deployment, and ^{the} level and measure of responsibility entrusted to them. The department has discharged all its legitimate obligations by absorbing them in the regular

Cadres according to a well thought-out procedure which protected their eventual interests. Shri Ashok Mishra contended on the basis of these grounds that the application does not deserve consideration.

8. The arguments advanced on behalf of the parties have been carefully noted and the record produced scrutinised closely. The judgment of Jabalpur Bench has also been studied. It is seen that the applicants were recruited under the provisions of a special scheme devised to meet certain specified operational contingencies. To that extent the recruitment of RTP candidates is seen to have been quite clearly different from the regular recruitment of Postal Assistants. Right from the inception of the scheme, the Department maintained a distinction between the two. It is stated that in the very manner of their recruitment, the candidates who are taken into the department under RTP Scheme were the ones who scored less marks at the Matriculation examination compared to those who were recruited directly as regular postal Assistants under an old, established and time-tested procedure. In other words the RTP recruits would not, in the normal course, have been selected as regular PAS on account of their lower merit. They were, however, recruited under ^{scheme} the RTP even though they had less merit at the point of entry, under the special ~~procedures~~ ^{provisions} of the scheme introduced as a contingency measure to overcome a particular operational problem.

15 J. J. M.

9. It is mentioned by the Senior Standing Counsel that whereas the candidates recruited as regular PAs were imparted an elaborate training, the RTP candidates were given an abbreviated training to enable them merely to perform some basic and relatively-uncomplex tasks in the post of RMS Offices. Most importantly, it is revealed that RTP candidates were deployed only on certain routine items of post/mail office work and were not utilised for more responsible positions since this would needlessly involve them in heavy monetary responsibility.

10. In our view it is important to take notice of these differences. It is clear, in retrospect, that the aim and scope of the RTP scheme differed from the regular recruitment procedures of the department. The manner of their recruitment, the basis on which they were recruited, the training they were imparted, and the manner and extent of their deployment, all of these point to a clear differentiation which had been maintained right from the beginning.

11. In the case before the Jabalpur Bench, the following points were raised :

" more work is extracted from a RTP employee under threat and pressure, which in nature is almost like 'Begar' prohibited under article 23 of the Constitution. On the basis of the counter from the respondents in the above case, it was held that the RTPs and the regular Postal Assistants performed the same work.

The Bench observed that 'it is an admitted fact that RTP personnel and regular Postal Assistants/ are doing one and the same job'.

H. J. L.

12. As ~~against~~ the above position, the respondents in the present case have maintained and shown that the work performed by these two groups was not, ~~not~~ or to the same extent, of responsibility. The directions issued by the Jabalpur Bench were based on the averments, responses in the case before them. The orders passed in that case were unexceptionable, ^{and on} given the basis of facts argued before the Bench. However, in the present case, certain additional distinctions and facts have been urged by the respondents which were not pleaded before the Jabalpur Bench or commented upon in the judgment, have, therefore, taken note of the additional factors.

13. Under the circumstances, it has to be held that the respondents have been quite fair to the applicants by absorbing them in the regular cadre of PAS in their turn, without insisting on merit at the entry point. The RTP so absorbed have taken their legitimate and due place among the regular staff of the department and are the beneficiaries of all the usual entitlements and concessions. It would be incorrect to argue that their pay should be equated with those of regular PAS retrospectively prior to their absorption in the regular PAS cadre. Such claim is inadmissible firstly because (a) they were clearly recruited on very specific terms, (b) they were recruited to tackle certain specified situations, (c) they were taken as RTPs on the basis of lower merit, (d) they were imparted ^{We} ~~certain tasks of routine~~ and abbreviated training and (e) they performed [^] nature and

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were not asked to handle certain specific task carrying monetary liabilities.

14. In the light of the above discussions, we are unable to grant any reliefs claimed by the applicant. The application is disallowed as lacking in merits. No costs.

P. Jammal
MEMBER (JUDICIAL) 7/29/60

H. Gopal
MEMBER (ADMINISTRATIVE)

BKSahoo.

Pronounced by me in open board on 9/11/95

Kanamkeshwaran

9/11/95

Member (Adm)
on tour at Cuttack