

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 712/96

PRESENT : Hon'ble Mr. D.V.R.S.G. Dattatreya, Judicial Member
Hon'ble Mr. B.P. Singh, Administrative Member..

Subrata Basu and 3 others.

- v e r s u s -

Union of India and Ors.

(Deptt. of Post)

For the applicants : Ms. U. Sanyal, counsel.
: Ms. S. Banerjee, counsel.

For the respondents : Mr. S.K. Dutta, counsel.

Heard on 1.8.2000

Order on 31-8 2000.

O R D E R

B.P. Singh, AM

In this O.A. the four applicants prayed for direction upon the respondent authorities to re-engage them and to absorb them against permanent post with due regards to their previous service as substitutes.

2. The applicants have joined as substitute E.D. Agent at different Post Offices on different dates as per detailed given in para 4 (c) of the application. They have worked as such upto 1995 and thereafter their services were terminated. They made several representations claiming regularisation on the ground that they have completed more than 180 days and, therefore, their case should be considered in preference to the outsiders against permanent vacancies. They have relied on certain decision of this Tribunal as per Annexure-D.

3. The respondents have contested the case and have stated that since the applicants have worked as substitutes, they cannot claim regularisation automatically simply by virtue of their work for more than 180 days.

4. We have heard Id. counsel Ms. U. Sanyal leading Ms. S. Banerjee and Mr. S.K. Dutta for the respondents.

5. The short question involves in this case is whether the applicants can claim regularisation as E.D. Agent by virtue of their work of more than 180 days or not *as ED Substitutes.*

6. The Id. counsel for the respondents has submitted that this issue has been finally decided by the Hon'ble Apex Court in the order dated April 28, 2000 in Civil Appeal No. 3080/2000 arising out of Special Leave Petition (C) No. 12309/1997 (Union of India & Ors. Vs. Debika Guha and Ors.). This Civil Appeal arose against the order dated 11.10.96 in O.A. No. 1062/95 (Debika Guha and Ors. Vs. U.O.I & Ors.) of this Tribunal in which the official respondents preferred the above appeal before the Hon'ble Apex Court. The Hon'ble Apex Court has passed the following orders:-

" The grievance before us in this appeal is in relation to an order passed by the Central Administrative Tribunal, Calcutta Bench holding that substitute Extra Departmental Agents of the Postal Department who have worked for 180 days or more in one calendar year continuously can claim to be regularised. The Tribunal gave a further direction that the appellants should determine on the basis of available records the period for which the respondents have worked continuously and if such period in any calendar year exceeds 180 days, neglecting short artificial breaks, should absorb them in future vacancies, provided they satisfy the eligibility conditions. When similar matters came up before this Court in Writ Petition No. 1624 of 1986 and connected matters, this Court held that the claim on behalf of substitutes ordinarily is not entertainable but made it clear that, however, if they have worked for long periods continuously, their cases could be appropriately considered by the department for absorption. When this Court has already decided that there cannot be a legal claim on the basis that they have worked for 180 days continuously, it may

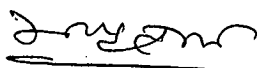
not be necessary for us to consider that aspect of the matter. Indeed, if it is shown that they have worked for long periods continuously, it will be for the department to consider the same whether that was a proper case for absorption or not and pass appropriate orders. Thus, we think the whole approach of the Tribunal is incorrect in the light of the decision of this Court. Therefore, we set aside the order passed by the tribunal. However, it is open to the appellants to examine the case of the respondents, if they have worked for long periods, to absorb them, as the case may be. The appeal is allowed."

7. The above order of the Hon'ble Apex Court is very clear and final. We do not find any scope to adjudicate the matter. The court has clearly held that the claim on behalf of the substitutes is not entertainable and, therefore, there cannot be any legal claim on the post that they have worked for 180 days or more continuously. The decision of the Hon'ble Apex Court is binding on us and no new material has been placed before us by the parties at the time of hearing. ²⁰⁰¹ ~~So far as the claim of the~~

~~applicants for regularisation against the G.O. post is concerned, it is~~
~~entitled to be considered on the basis of the evidence as substitute.~~ ²⁰⁰¹

Accordingly we dismiss the application directing the respondents to act in accordance with the order dated 28.4.2000 passed by the Hon'ble Apex Court as quoted above.

8. No order is passed as to cost.


(B.P. Singh) 3108200


(D.V.R.S.G. Dattatreya)

a.k.c.