

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 1473/96

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

Gobinda Chandra Das

-v e r s u s -

Union of India and Ors. Union of India & Ors.
(Dept. of Post)

For the applicant : Dr. S. Sinha, counsel.

For the respondents : Mr. B.K. Chatterjee, counsel.

Heard on 1.8.2000

Order on 31-8-2000

O R D E R

B.P. Singh, AM

This O.A. has been filed by the applicant praying for his appointment as an Extra Departmental Mail Peon (EDMP) and also for quashing of the reply dated 21.3.95 (Annexure-C) given by the respondents in response to his representation dated 23.1.95.

2. The case of the applicant is that he had worked as ^{Substitute} Extra Departmental Mail Peon in the Garfa Branch Post Office from 1991 to 1995. A regular vacancy was notified for the aforesaid post office in the post of E.D.M.P. The applicant also applied for the same and interview was held on 10.4.96. It is stated that the respondent authorities have appointed pvt. respondent No.4 in the aforesaid post. He made a representation to the authorities for considering his case which was rejected. Hence this application.

3. The respondents have filed a reply for contesting the case of the applicant. It is stated that the applicant had worked as a substitute E.D.M.P. in place of his father Sri Keshab Chandra Das during the period between 1991-95. Thereafter a regular selection was held for the vacant post of E.D. in the aforesaid post office for the candidates who were sponsored by the Employment Exchange. But since the name of the applicant was not sponsored by the Employment Exchange, his case could

not be considered.

4. We have heard Id. counsel Dr. S. Sinha for the applicant and Id. counsel Sri B.K. Chatterjee for the respondents.

5. The short question involves in this case is whether the applicant ~~or get preferential treatment for appointment~~ can claim regularisation as E.D. Agent by virtue of his work of more than 180 days or ~~not as an ED Substitute~~.

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 Apēx 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 onus and no new material has been placed before us by the parties at the time of hearing. ~~So far as the claim on the applicant for regularisation against the G.D post is concerned, he is entitled to any benefit on the basis of working as substitute G.D.~~ 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) 31st Oct 2000


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

a.k.c.