

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.M.A. 318/2000

O.A. 1191/96

Present : Hon'ble Mr.D.Purkayastha, Judicial Member

Hon'ble Mr.G.S.Maingi, Administrative Member

Sri Soumitra Paul, residing at 2/3/396/B Kumar Para Lane, P.O. Badartola, P.S. Metiabruz, Calcutta - 700 044, worked as substitute Extra Departmental Stamp Vendor under Department of Post, India. ... Applicant

-Versus-

1. Union of India, service through the Secretary, Ministry of communication, Department of Post & Telegraph, New Delhi.
2. Chief Postmaster General, West Bengal Circle (Jogajog Bhawan), Calcutta - 700 012.
3. Senior Superintendent of Post Offices, South Calcutta Division, Calcutta - 700 029.
4. Senior Superintendent of Post Offices, North Calcutta Division, Belgachia Post Office, Calcutta - 700 037.
5. Assistant Superintendent of Post Offices, South Calcutta, 3rd Sub-Division, Calcutta - 700 027.
6. Assistant Superintendent of Post Offices, North Calcutta, 1st Division, Belgachia Post Office, Calcutta - 700 037.
7. Sub-Post Master (H.S.G.), Garden Reach Post Office, Calcutta - 700 024.
8. Sub Post Master Hog III, Kalakar Street Post Office, Calcutta - 700 007.

... Respondents

For the applicant(s) : Mr. K. Sarkar, counsel  
Ms. S. Mitra, counsel

For the respondents : Ms. U. Sanyal, counsel

Heard on : 25.7.2000

Order on: 25.7.2000

D.Purkayastha, J.M.:- 1d.counsel O R D E R  
Mr.K.Sarkar/leading Ms.S.Mitra, 1d.counsel appearing on behalf of the applicant submits that this case can be disposed of by Tribunal in view of the fact that similar question of law has been decided by Hon'ble Supreme Court by setting aside the order passed in O.A.No.1062 of 1995 on 11.10.1996 in the case of Debika Guha Vs. Uni

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of India & Ors. where this Tribunal observed as under :-

" For the reasons indicated above, we dispose of this application with the order that the respondents shall determine on the basis of available records the period for which the petitioners 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."

3. Against that order dated 11.10.1996 in O.A. No. 1062 of 1995 the Official Respondents preferred an appeal before the Hon'ble Appex Court bearing SLP(C) No. 13309/1997 which has been numbered as Civil Appeal No. 3030/2000 (Union of India & Ors. -Vs- Debika Guha & Ors.) and the Hon'ble Appex Court has passed the following order :-

" 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 the 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."

4. Mr. K. Sarkar, 1d. counsel for the applicant submits that the present application may be disposed of with a direction upon the respondents to consider the case of the applicant in the light of the judgement of the Hon'ble Appex Court as mentioned above. We find that there is no impedement to grant this prayer of the 1d. counsel for the applicant. In view of the aforesaid circumstances, we direct the respondents to consider the case of the applicant if it comes within the purview of the judgement passed by the Hon'ble Appex Court as mentioned above. With this observation, application is disposed of awarding no costs. M.A. also stands disposed of.

*G.S. Maingi*  
25.2.2002

G.S. MAINGI  
MEMBER (A)

*H.D.P. 25/2002*

D.PURKAYASTHA  
MEMBER (J)