

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 469 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Dr. B.C. Sarma, Administrative Member

BIDYUT KR. ROY & ANR.

-vs-

UNION OF INDIA & CRS.

For applicants : Mr. N. Bhattacharjee, counsel

For respondents : Ms. B. Ray, counsel

Heard on : 25.9.1996

Order on : 27.9.1996

O R D E R

A.K. Chatterjee, VC

The applicants Bidyut Kr. Roy & Smt. Rina Das contend that in response to a Memo dt. 17.11.95 of the office of the Assistant Superintendent of Post Offices, North Calcutta 1st Sub-Division inviting applications from eligible parttime staff of the said Sub-Division for filling up post of Extra-Departmental Agents, they made application in time as they had previously worked as parttime Sweeper-cum-Water Carrier at Mall Road Post Office. The said Memo was sent to all the Sub-Post Masters, who had requested to forward the applications received from eligible parttime candidates to the Assistant Superintendent of Post Offices, but the petitioners contend that as the Sub-Post Master of Mall Road Post Office did not accept their applications on the ground that they were no longer in service, they sent the same direct to the Assistant Superintendent of Post Office by post

from the same post office under certificate of posting. However, they were not called for interview and on being approached by them, the Assistant Superintendent of Post Offices intimated that only ~~the cases of~~ those parttime workers, who were still working, would ~~only~~ be considered. In the circumstances, the instant application has been filed for a direction upon the respondents to consider the applications of the petitioners along with other candidates for appointment to the post of Extra-Departmental Agents according to rules contending, inter alia, that they could not be left out of consideration on the ground that they were not working when the applications were invited.

2. The respondents in their counter deny that any application in response to the Memo dt.17.11.95 was received in the office of the Assistant Superintendent of Post Office and contend that the petitioners are not eligible for selection as it was restricted only among the serving parttime staff.

3. An interim order was made to the effect that any appointment of Extra-Departmental Agents in Mall Road Post Office would abide by the result of the case, provided the appointees were impleaded as party respondents by the petitioners. However, the Ld.Counsel for the respondents has stated at the time of hearing that vacancies of ED Agents at Mall Road Post Office were still not filled up.

4. We have heard the Ld.Counsel for both the parties and perused the records before us. The Ld.Counsel for the petitioners had produced for our perusal and examination the certificates of posting by which the applications, in response to memo dt.17.11.95, by the present petitioners were purportedly sent by post and such certificates were issued well before the last date fixed for receipt of the application. The respondents no doubt deny the


receipt of application from the petitioners in the office of the Assistant Superintendent of Post Office for which undoubtedly no blame can be attached either to the said respondents or to the present petitioners, although it no doubt betrays poor service of postal authorities. It has been noted that according to the petitioners, the Sub-post Master of Mall Road Post Office refused to accept the application of the petitioners on the ground that they were no longer working as parttime staff. Such refusal is no doubt denied by the respondents, but in this regard, we are disposed to accept the petitioners' version because it does not stand to reason that they should post the article at Mall Road Post Office itself unless it was refused by the Sub-Post Master. It was much easier for the petitioners to deposit the application with the S.P.M. of Mall Road Post Office rather than to have it posted at the same Post Office under certificate of posting. We, therefore, accept the case of the petitioner that the Sub-post Master of Mall Road Post Office indeed refused to accept their applications which was the reason why they were obliged to send it by post under certificate of posting. It ^{appears} ~~is~~ ^{to us to be} ~~also~~ a strange coincidence that ^{both} the applications, which Mall Road Post Office was almost forced to accept after refusal should be lost in transit. We, therefore, hold that the alleged non-receipt of the application in the office of the Assistant Superintendent of Post Office cannot be a ground to exclude the petitioners from consideration for selection to the post in question.


5. Regarding the other contention of the respondents namely that the petitioners were not at all eligible as the selection was restricted only among parttime staff, who were still working, suffice it to say that the Memo dt.17.11.95 contains no such

restriction, though it must be stated that it does not also say that parttime staff, who had previously worked could also apply. As the memo is silent on the point and as no rule was brought to our notice, we find no reason to hold that only serving parttime workers were eligible to apply for the vacant posts of ED Agents. The Ld. Counsel for the respondents has drawn our attention to a ~~certified~~ letter of the Director General (Posts) dt. 6.2.88 as reproduced in para-25 at page-88 of Swamy's Compilation of Service Rules for Extra Departmental Staff, 6th Edition. Here also, we do not find anything to support a conclusion that only serving part-time casual labourers ^{are eligible} for recruitment to Group-D cadre post. Indeed, ^{neither} the Memo. dt. 17.11.95 nor any rule ~~can~~ lay down or interpreted to lay down that only serving part-time employees are eligible as it would clearly make an arbitrary discrimination between serving staff and others, who had ceased to serve and it would be liable to be struck down.

6. On the above premises, we direct the respondents to consider the petitioners along with other eligible part-time staff, who had applied in response to Memo dt. 17.11.95 for selection to the post of Extra-Departmental Agents at Mall Road Post Office according to rules. The process of selection shall be completed within a period of 8 (eight) weeks from the date of communication of this order.

7. The application is thus disposed of without, however, any order as to costs.


B.C. Sarma)
Member (A)
27/9/86


27.9.86
(A.K. Chatterjee)
Vice-Chairman