

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.C.A. 927 of 1997

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

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

1. Smt. Krishna Dey (Das) working as Daily Rated Extra Departmental Stamp Vendor at Income-Tax Building Post Office, Calcutta-69 residing at- P/1/36 Beliaghata Main Road P.O.- Beliaghata Calcutta.
2. Sri Suklal Saha working as Daily Rated Extra Departmental Stamp Vendor at R.N. Mookherjee Road, Calcutta-1 residing at- 11A, Khetra Mohan Naskar Road, Calcutta-40.
3. Sri Amal Kanti Das working as Daily Rated Extra Departmental Stamp Vendor at Khangrapatti Post Office Calcutta-1 residing at-AB-3/4, Keshbandhu Nagar Baguihati, Calcutta-59.
4. Gagan Chakraborty working as Daily Rated Extra Departmental Stamp Vendor at Shakespeare Sarani, Calcutta-17 residing at P-13, Purbapally, P.O.-Haltu, Calcutta-78.
5. Md. Narez Zaman working as Daily Rated Extra Departmental Stamp Vendor at -Khangr Patti Post Office Calcutta-1 residing at 16, Milmadhab Sen Lane, Calcutta-73.

6. Sri Ranjan Chakraborty working as Daily Rated Extra Departmental Stamp Vendor at Khangrapatti Post Office Calcutta-1. residing at- Village-Sukanta Palli, P.O.- Boral, Dist-24 Parganas(S).
7. Chandana Bhattacharya(Pal) working as Daily Rated Extra Departmental Stamp Vendor at Bowbazar Post Office, Calcutta-12 residing at- 1/H/6, Prankrishna Mookherjee Road, Calcutta-2.
8. Smt. Jayanti Modak(Das) working as Daily Rated Extra Departmental Stamp Vendor at Bowbazar Post Office, Calcutta-12 residing at-Rajarhat Bishnupur, 24 Parganas.
9. Sri Khokon Gopal Ghosh working as Daily Rated Extra Departmental Stamp Vendor at-Chittaranjan Avenue Post Office Calcutta 73, residing at- C/45 Jagganath Temple Road Cossipore Post Office, Calcutta-2.
10. Sri Swapan Kumar Chanda working as Daily Rated Extra Departmental Stamp Vendor at Strand Road, Post Office, Calcutta-7 residing at-42, Shibtakur Lane, ~~XXXXXX~~ Post Office Barra Bazar Post Office Jorashaki, Calcutta-7.

11. Sri Gautam Basak working as Daily Rated Extra Departmental/Mail Carrier at C.R. Avenue Post Office, Calcutta - 73 residing at 5, Nabakumar Raha Lane P.O. Shyambazar, P.S. Shyampukur, Cal-4.

12. Sri Tanmoy Mookherjee working as Ex-Extra Departmental Stamp Vendor (Substitute) at Fortwilliam Post Office, Cal-21 residing at - 102/7/2 Tallygunge Road, Calcutta - 26.

13. Smt. Shila Roy working as Ex-Extra Departmental Stamp Vendor (Substitute) at Little Russel Street Post Office, Cal-71 residing at - 3/A, Anukul Mookherjee Road Calcutta - 6.

... Applicants

- Versus -

1. Union of India, through the Secretary to the Government of India Ministry of Communication Department of Posts Dak-Bhawan, New Delhi - 1.

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2. Chief Post Master General, West Bengal Circle, Yogyag Bhawan, C.R. Avenue, Cal-12.
3. Sr. Superintendent of Post Offices, Central Calcutta Division, Calcutta-7.

... Respondents

For the applicant(s) : Mr. M.K. Bandyopadhyay, counsel

For the respondents : Ms. B. Ray, counsel

Heard on : 16.6.2000

Order on: 16.6.2000

O R D E R

D.Purkayastha. J.M. :-

In this application applicants have claimed that they are entitled to be absorbed on regular basis since they have worked more than 180 days in a Calendar Year.

2. Mr. M.K. Bandyopadhyay, ld. counsel appearing on behalf of the applicants submits before us that similar question has been decided by the Hon'ble Tribunal in O.A.No. 1062 of 1995 on 11.10.1996 in the case of Ms. Debika Guha & Ors. -Vs- Union of India & Ors. where Hon'ble Tribunal held as follows :-

" 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 Apex Court bearing SLP(C) No. 12309/1997 which has been numbered as Civil Appeal No. 3080/2000 (Union of India & Ors. Vs. Debika Guha & Ors.) and the Hon'ble Apex Court has passed

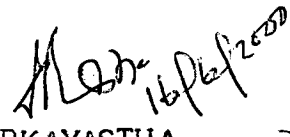
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the following order :-

* 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 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. In view of the aforesaid circumstances we are of the view that nothing can be adjudicated in this case since the ^{delivered} Hon'ble Appex Court is binding ^{to} us and no new materials could be placed before us by the Parties at the time of hearing. Accordingly, we direct the respondents to act in accordance with the Order passed by the Hon'ble Appex Court on 28.4.2000. With this observation, we dispose of this application awarding no costs.


G.S. MAINGI
MEMBER (A)


D. PURKAYASTHA
MEMBER (J)

a.m.