

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA 974/97

31-7-2001

Present : Hon'ble Mr.D. Purkayastha, Member (J)
Hon'ble Mr.V.K.Majotra, Member(A)

Gurupada Mondal

-Vs-

D/O Post

For the applicant : Mr.N.Bhattacharjee

For the respondent : Mr.S.P.Kar

ORDER


Mr.V.K.Majotra, Member(A) :

The applicant was appointed as Extra Departmental Mail Carrier, Dakshin Gobindapur PO on 11-9-85. Vide order dated 2-9-96 he was asked to join as Post Master on adhoc basis with immediate effect. The applicant claims that he has worked as such for more than 240 days at a stretch from 3-9-96 to 4-5-97. The applicant has sought grant of temporary status and regularisation under the scheme of Casual Labourers (temporary status and regularisation) having worked for more than 240 days. It is stated that under the scheme temporary status is conferable on the Casual Labourers on employment on 29-11-89 and who continued to be currently employed and rendered service for 240 days during the year.

2. The respondents in their counter reply have contradicted the claim made by the applicant although they have admitted that the applicant had functioned as Adhoc Postmen from 3-9-96 to 4-5-97 for a total period of 244 days continuously. But, according to the respondents he cannot be regularised as Postman. According to them the mode of recruitment in the cadre of Postmen does not permit any ED staff to be absorbed straight-way in the Postmen cadre. Thus the

applicant is not entitled for conferring the status as Postman and also cannot be considered for regularisation against the post of Postman.

3. We have heard the learned counsel of both sides and perused the materials on record. The learned counsel for the applicant relied on 1994(1) ATJ 599 in S.K.Indiramohan & Others V. Union of India, in which it has been held that the Casual Labourers (grant of Temporary Status and Regularisation) Scheme does not make any distinction between persons who are specifically designated as Casual Labourers and who are not so designated. The applicants who had worked for more than 240 days in a year or several years against leave vacancies are entitled to be conferred temporary status. Vide instructions relating to filling up of vacancies of Postmen/Village Postmen/Mail Guards promulgated vide D.G. Posts letter No.44-44/82-SPB-I dated 7-4-1989(R-1). The system of recruitment to the cadre of Postmen/Village Postmen has been rationalised. The relevant rules were modified as :

- " (i) The existing method of recruitment to 50% of vacancies in the cadre of Postmen/Village Postmen by promotion of Group 'D' officials, who qualify in the test will continue.
 - (ii) The remaining 50% of the vacancies, who are for outsiders' quota and are filled in from amongst the ED Agents, should be further divided into two halves. One half of the 50% of the vacancies will be filled in from amongst ED Agents who have put in three years* regular service and are within the age limit on the basis of merit in the examination. The remaining half of the 50% of the vacancies will be filled in, on the basis of length of service, from EDAs who have put in three years
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of regular service and are within the age limit and who qualify in the examination. The number of ED Agents to be permitted to take the examination under this quota will be five times of the vacancies announced under this quota.

(iii) If sufficient number of EDAs are not recruited from a Division, the vacancies shall be thrown open to all the EDAs of the Postal Divisions falling in the Zone of Regional Director instead of neighbouring divisions as provided in the instructions at present.

(iv) In Group 'A' Post Offices, if sufficient EDAs cannot be recruited from that office, the vacancies shall be thrown open to all the EDAs of the Postal Divisions located at the same station. If there are still some vacancies left, such vacancies will be thrown open to the ED Agents in the region."

4. From the facts of this case it is clear that the applicant had been appointed as Postman on adhoc basis against the rules and instructions extracted above. Basically a person who has been appointed as Postman against the rules/instructions cannot be allowed the benefit of the temporary status/regularisation at all. We are unable to give a finding that the applicant can be accorded temporary status as Postman just because he worked as adhoc postman for more than 240 days continuously. However, keeping in view the interest of justice, we cannot lose sight of the fact that the applicant had been working with the respondents as EDMC since 16-9-85 before he ~~was~~ worked on adhoc basis as Postman from 3-9-96 for 240 days. The learned counsel for the applicant stated that the applicant had not been granted temporary status even in the post of EDMC although he had worked for several years in that post before he was appointed on adhoc basis as Postman. In our considered view, the applicant deserves temporary status for having worked for

several years in the post of EDMC while having been appointed as Postman on adhoc basis against the rules for more than 240 days, he cannot be considered for conferral of temporary status in the post of Postman. In our view it is fit and proper if the applicant is considered for appointment in a Group 'D' post as per rules on the basis of his seniority and also reckoning the period of adhoc service as Postman. With this observation the application is disposed of. No order as to costs.

V.K. Majotra
(V.K. Majotra)
Member(A) 31.7.2001

D. Purkayastha
(D. Purkayastha)
Member(J) 21/7/2001