

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 1139 of 1997

Date of Order : 16.3.2004.

Present : Hon'ble Mr. S. Biswas, Administrative Member  
Hon'ble Mr. Nityananda Prusty, Judicial Member

GHULAM GHAUS YAZDANI AND ORS.

VS.

UNION OF INDIA AND ORS.

For the Applicant : Mr. C. N. Dey, counsel  
Mr. P. Bhattacharjee, counsel  
Mr. D. K. Ghosh, counsel

For the Respondents : Ms. U. Sanyal, counsel.

O R D E R

MR. NITYANANDA PRUSTY, JM:

The applicants who were earlier working as contingent paid Night Guard at different places under the respondent authorities, have filed this present application for the following reliefs:-

- "a) For Order/direction/Writ in the appropriate nature that the applicants are eligible for the declaration of their right/ status as temporary contingent paid Night Guards and they are also eligible for the grant of "temporary status" in the postal regular cadre service;
- b) For futher order/orders/directions upon the Respondents postal authorities impleaded herein to grant the same benefit as the Contingent Paid Night Guards of Dumka in the Santhal Parganas Division in the state of Bihar as circulated in the Memo No. A-GF/MISC/Ch-IV dated 31.8.95;
- c) For orders/directions upon the Respondents No. 3 & 4 to maintain pay parity with and equation of employment opportunity between the Contingent Paid Night Guards of Santhal Parganas Division of Wt. Bengal attached to different post offices as contingent Paid Night Guards;
- d) For futher order/directions/commanding the respondents postal authorities impleaded herein to act in the matter of the grant of "temporary status" and also regularisationsscheme of the Casual Contingent Paid Night Guards for their further absorption in the Cadre of 'D' Group in terms of the circular No. 45-95/87-SPB-1 dated 12.4.91 issued by Ministry of communication (Dept. of Post);
- e) For the grant of the leave/liberty to the applicants to join in the same petition as required under Rule 4(5) (A) CAT Procedure Rules, 1987 as amended from time to time by reason of the fact that in the cause of action ventilated in this application and reliefs prayed for the applicants have got common interest;

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f) For further order/orders in the matter of the proper fixation of pay etc. and payment of all the arrears in the time scale of pay which may be due to the applicants from the time they may be found eligible for the benefits in terms of the guidelines issued by the Ministry of Communication (Dept. of Post) dated 12.4.91. Payment of interest over the amount found due and payable upon regularisation of the service of the applicants, grant of "temporary status" as per rules and payment of the pay arrears and allowances;

g) For costs;

h) For further relief/reliefs as may be granted by your Lordships under law and ~~in~~ equity."

2. As such the main prayer of the applicant is for confirmation of temporary status with all consequential benefits. When this matter was taken up for hearing Mr. P. Bhattacharjee, 1d. counsel for the applicant submits that in the mean time the applicants have already been regularised w.e.f. 2000. As such even though this application has become infructuous by passage of time, the applicants are entitled for regularisation much prior to 2000 and accordingly they are entitled for all consequential benefits. In view of the above position, 1d. counsel prays to withdraw this application with liberty to file a detailed representation before the competent authority highlighting all their grievances including the grievances relating to their regularisation prior to 2000 and all consequential benefits.

3. Heard Mr. P. Bhattacharjee, leading Mr. C. N. Dey and Mr. D. K. Ghosh, 1d. counsel for the applicant and Ms. U. Sanyal, 1d. counsel for the official respondents.

4. Ms. Sanyal, 1d. counsel appearing on behalf of the official respondents submits that she has no objection to the above prayer for withdrawing the application, but she has objection to the prayer for grant of leave for filing representation. However learned counsel submits in case such a leave is granted to the applicants, there should not be any observation on merits of the case.

5. Considering the above submissions made by 1d. counsel for both the parties, the O.A. is accordingly dismissed as withdrawn. There shall be no order as to costs.



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6. However, the applicants are at liberty to file individual representations before the competent authority highlighting all their grievances including their grievances for regularisation prior to 2000 with all consequential benefits, within a period of one month from the date of communication of this order and in case such representations are filed, the respondent authorities more particularly respondent no.03 and 04 are directed to consider the said representation keeping in view all the relevant documents relied upon by the applicant and copy of which are filed along with their representation and dispose of the same by passing a reasoned and speaking order in accordance with law within a period of two months from the date of receipt of such representation and communicate the order to the applicants within a period of two weeks thereafter.

7. It is made clear that we have not observed anything on the merits of the case. However, in case the decision goes in favour of the applicants then all the consequential service benefits including financial benefits be extended in their favour on the basis of such decision within a period of one month from the date of passing such order. In case the decision goes against the applicants then they are at liberty to appropriate forum for redressal of their grievances in accordance with law.

MEMBER (J)

*S. Basu*  
MEMBER (A)

ASVS.