

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A./212 of 1997

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

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

Malina Sarkar, daughter of Mritanjay Sarkar,
of 10/26, Wards Institution Street, Post Office:
Beacon Street, Calcutta -6.

... Applicant

-Versus-

1. Union of India, service through the Secretary,
Ministry of Communication, Department of Posts,
Dak Bhavan, Sansad Marg, New Delhi-1.
2. Director General of Post Dak Bhavan, Sansad Marg,
New Delhi-1.
3. Chief Post Master General, Yogayog Bhavan,
Calcutta -12.
4. The Senior Superintendent, of Post Office, North
Calcutta Division, Calcutta -37.
5. Post Master, Hat Khola Post Office, Calcutta.
6. Smt. Mausumi Kundu, residing at 276, Rabindra Nath
Tagore Road, Calcutta-77 working as Extra Departments
Stamp Vendor, Hatkhola Post Office, North Calcutta,
1st Division, 1st floor of 5A, Indra Biswas Road,
Calcutta - 37 (added as party respondent vide order
dated 27.1.98 in MA 10 of 98)

... Respondents

For the applicant(s) : Ms. B. Ghosal, counsel

For the respondents : Ms. B. Ray, counsel (for official respdt.)

Mr.T.K. Biswas, counsel (for pvt. respdt.6)

Heard on : 27.7.2000

Order on: 27.7.2000

ORDER

D.Purkayastha, J.M.:-

Heard ld. counsel of both the parties. Ld.counsel of both the parties agreed that the fate of the applicant in respect of her claim in the application can be decided in view of the judgement passed by the Hon'ble Appex Court in Civil Appeal No.3080 of 2000 arising out of Special Leave Petition (C) No.12309 of 1997 in the case of Union of India & Ors. -Vs- Debika Guha & Ors which runs

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as follows :-

" 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, 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."

2. In view of the aforesaid circumstances, we direct the respondents to consider the grievance of the applicant as agitated in the application in the light of the said judgement of the Hon'ble Appex Court and they may give appropriate relief to the applicant in