

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A./519/1997

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

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

1. Jayanta Das, son of Late Rabi Das; residing at 3/1B, Sarkar Lane, Calcutta-7.
2. Sujoy Chakraborty, son of S.S.Chakraborty, residing at 86B, Keshab Ch. Sen St., Calcutta - 9.
3. Jayanta Banerjee, son of late S.K.Banerjee, residing at 30/2, Christopher Road, Calcutta-46.
4. Subaran Paramanik, son of late N.C.Pramanik, residing at 524, Rabindra Sarani, Calcutta - 3.
5. Madan Gopal Mukherjee, son of S.N.Mukherjee, residing at 1/1A, Ramkanta Bose Street, Calcutta-3.  
- Sl.No.1 to 4 working for gain as ED Nominee in Barrabazar Head Post Office, Calcutta-7 and Sl.No.5 working for gain as Part-time Gardener in the said post office.

... Applicants

-Versus-

1. Union of India service through the Secretary, Ministry of Communication, Deptt. of Posts, Dak Bhavan, New Delhi-1.
2. The Director General of Post, Govt. of India, Dak Bhavan, New Delhi-1.
3. The Chief Postmaster General, W.B.Circle, Yogayog Bhawan, Cal -12.
4. The Chief Postmaster, Barrabazar Head Post Office, Calcutta - 7.

... Respondents

For the applicant(s) : Mr. Samir Ghosh, counsel

For the respondents : Mr. B. Mukherjee, counsel

Heard on : 25.7.2000

Order on: 25.7.2000

ORDER

D.Purkayastha, J.M.: -

Ld. Counsel Mr.Samir Ghosh appearing on behalf of the applicant submits that this case can be disposed of by this Tribunal in view of the fact that similar question of law has been decided by Hon'ble Supreme Court by setting aside the order passed in O.A.No.1062 of 1995 on 11.10.1996 in the case of Debika Guha & Ors. -Vs- Union of India

which goes as follows:-  
& Ors. with the following observation :-

" 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 Appex Court bearing SLP(C) No.13309/1997 which has been numbered as Civil Appeal No.3080/2000 (Union of India & Ors. -Vs- Debika Guha & Ors.) and the Hon'ble Appex Court has passed 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 Peitition No.1624 of 1986 and connected matters, this Court held that the claim on behalf of the 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. Mr. Samir Ghosh, 1<sup>st</sup> counsel for the applicants submits that the present application may be disposed of with a direction upon the respondents to consider the case of the applicants in the light of the judgement of the Hon'ble Appex Court as mentioned above. We find that there is no impediment to grant this prayer of the 1<sup>st</sup> counsel for the applicant. In view of the aforesaid circumstances, we direct the respondents to consider the case of the applicants if it comes within the purview of the judgement passed by the Hon'ble Appex Court as mentioned above. With this observation, application is disposed of awarding no costs.

*Ag. S. Maini*  
25-2-2000.

G.S. MAINI  
MEMBER (A)

*D. Purkayastha*  
27/2/2000  
D. PURKAYASTHA  
MEMBER (J)