

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 1740/91 &
~~XXXXXX~~ 5/92.

xxx

DATE OF DECISION 26.6.92

Ms. M.R. Leela Devi & another Applicant (s) in O.A.1740/91.
Ms. C.V. Kamakshy & 8 others " " 5/92.

Mr M.R. Rajendran Nair Advocate for the Applicant (s) in
Mr M.A. Shafik " " O.A.5/92. O.A.1740/91
Versus

Union of India (Secy., Min. Respondent (s)
of Communications) & 2 others.

Mr. C. Kochunni Nair, ACGSC Advocate for the Respondent (s) in O.A.
CORAM : Mr. Mathews J Nedumpara, ACGSC in O.A.5/92. 1740/91.

The Hon'ble Mr. N.V. Krishnan - Vice Chairman

&

The Hon'ble Mr. A.V. Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? W
3. Whether their Lordships wish to see the fair copy of the Judgement? W
4. To be circulated to all Benches of the Tribunal? W

JUDGEMENT

(Hon'ble Shri A.V. Haridasan, Judicial Member)

The applicants in O.A.1740/91 are Postal Assistants who were initially deputed as short duty Assistants in the Reserve Trained Pool on daily wages with effect from 1.10.83 and 5.2.83 respectively. They were absorbed in regular service only with effect from 26.5.1990.

2. The applicants in O.A.5/92 were initially engaged as Reserve Trained Pool Telephone Operators and Telecom Office Assistants and Technicians on various dates and were absorbed in regular service on the respective dates shown at Annexure A2.

3. The grievance of these applicants is that the refusal on the part of the respondents to reckon their services as RTPs for the purpose of seniority, annual increment, bonus etc would cause them undue hardship and loss. It has been averred that since these applicants had been selected in competitive examinations held by the Department for appointment in the service of the Department and ever since the completion of training, they had been discharging the same duties and shouldering the same responsibilities as Postal Assistants/Telephone Operators/Telecom Office Assistants/Technicians regularly appointed, the refusal to reckon their services rendered before they were regularly absorbed in service violates their fundamental right to equality in the matter of employment guaranteed under Articles 14, 16 and 21 of the Constitution. The applicants, therefore, pray that it may be declared that they are entitled to get the benefit of their service commencing from the ^{respective} ~~the~~ dates of their initial engagement as RTPs for the purpose of annual increment, bonus, length of service for seniority and for the purpose of departmental examination and other purposes and to issue necessary directions to the respondents to give the applicants consequential benefits arising out of such declaration.

4. When the case came up for final hearing the learned counsel for the respondents submitted that the respondents were adopting the contentions raised in O.A.814/90 in these cases also as an identical question was considered and disposed of by this Bench in a batch of cases including O.A.814/90 on 21.4.1992.

5. The main contentions raised by the respondents in O.A.814/90 were that before absorption in the regular service, the applicants not being holders of any post, were not entitled to seniority, increments, bonus etc and that in the judgement of the Hon'ble Supreme Court in Writ Petition No.1119/86 the Hon'ble Supreme Court had observed that after eventual absorption of the RTPs in regular service, their claims should be regulated by the extant rules. The applicants were not entitled to any benefit of seniority etc for the period during which their services were utilised only on a casual basis by paying them pro rata wages calculated at hourly rates as according to the extant rules, service is to be reckoned from the date of regular appointment. The respondents further contended that as the Hon'ble Supreme Court had already decided the question as to how the period of service rendered as RTPs should be treated on regular absorption, the applicants were not entitled to raise the same question before this Tribunal. In the above batch of cases, this Bench had observed that if a scheme for regularisation of casual labourers in the Postal Department is made, the benefit of such scheme should be extended to the RTPs like the applicants in that case even though as per the extant rules, there is nothing which enables the RTPs to claim that the services rendered by them as RTP should be reckoned for the purpose of seniority. In view of the above observations, the batch of cases were disposed of giving specific directions. Since the facts and circumstances of the cases on hand are

identical to that of the above said batch of cases, we are of the view that these applications also can be disposed of with the same directions.

6. In the result, we dispose of these applications with the following directions:-

- (i) If the applicants had been, after recruitment as RTP Postal Assistant/Telephone Operator/Telecom Office Assistant/Technician, rendering service for 8 hours a day continuously, on completion of one year of such service, they should be deemed to have attained temporary status and half the period of eight-hours-a-day-service after attaining temporary status should be reckoned for the purpose of qualifying service for pension;
- (ii) all other benefits available to the casual mazdoors after attaining temporary status and subsequent regularisation under the scheme should also be extended to the applicants if they satisfy the above conditions, and
- (ii) the applicants should be paid productivity linked bonus if like casual labourers they had put in 240 days of service each year for 3 years or more as on 31st March of each bonus year after their recruitment as RTP candidates, i.e. the benefit of the judgement in O.A.612/89 and O.A.171/89 should be extended to the applicants in all these cases.

5. There is no order as to costs.

(A.V. HARIDASAN)
JUDICIAL MEMBER

(N.V. KRISHNAN)
VICE CHAIRMAN

26.6.92