

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

QA 547/99

Tuesday, this the 7th day of August, 2001.

CORAM :

HON'BLE SHRI A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE SHRI G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. Mary Joseph,
Part-time Contingent Employee,
Thalassery Post Office,
Thalassery P.O.
2. Elizabeth Francis,
Part-time Contingent Employee,
Thalassery Post Office,
Thalassery P.O. ...Applicants

(Advocate Mr. G. Sasidharan Chempazhanthiyil)

Vs

1. Postmaster,
Thalassery Head Post Office.
2. Superintendent of Post Offices,
Postal Division,
Thalassery.
3. Postmaster General,
Northern Region,
Kozhikode.
4. Union of India rep. by its Secretary,
Postal Department, New Delhi. ...Respondents

(By Mr. M.R. Suresh, ACGSC)

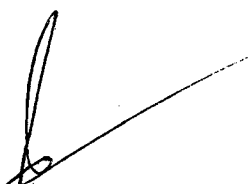
The application having been heard on 7.8.2001, the Tribunal on the same day delivered the following :

ORDER

HON'BLE SHRI A.M. SIVADAS, JUDICIAL MEMBER

Applicants seek the following reliefs :-

1. Call for the records and quash Annexure A1 in as much as it limits the working hours of the 2nd applicant as 6 hours and fixed the date of effect as 1.1.99 and A4.
2. Declare that the applicants are entitled to be treated as full-time Sweeper/Scavenger/Cleaner/Water Carrier in the Office of the first respondent and direct the respondents to regulate their benefits including wages, accordingly and pay them arrears as admissible under the law.



3. Direct the respondents to confer temporary status on the applicants with effect from 1989 with all consequential benefits including regularisation in Group D posts.

4. Direct the first respondent to keep unfilled two Group D posts existing or that may be arising in the future for the purpose of regularising the applicants.


5. Direct the first and second respondents to extend the monetary benefits arising out of treating the applicants as full-time employees for the three years period prior to the filling of this Original Application.

6. Direct the respondents to regularise the applicants in Group D posts with effect from the date of appointment of Extra Departmental Agents from the Division, as Group D under the first respondent will am consequential benefits.

7. Any other further relief or order as this Hon'ble Tribunal may deem fit and to meet the ends of justice.


8. Award the cost of these proceedings.

2. Applicants have been working as Contingent Employees for the last 31 and 19 years respectively. The total floor area swept by the applicants comes to 18256 Square Feet. In addition to this the applicants are required to sweep the lawn area on the sides of the building measuring 20 cents. The total staff strength in the office of the first respondent is 75. As per the standard fixed by the respondents for sanctioning of full time sweeper/Scavenger/Cleaner/Water Carrier justified a minimum of four full time employees. The standard for sanctioning a full time sweeper is 7000 to 9000 Sq. Ft. The sweeping area in the office of the first respondent alone will justify sanctioning of two full time sweepers. They are paid wages as part-time employees. They do the work, attending the office for more than 8 hours a day. Applicants have been sending representations to the various authorities for enhancement of their wages. The 1st respondent passed orders enhancing the work hours to 8 hours and 6 hours with effect from 1.1.99. The 2nd applicant was not made a full time employee even by Annexure A1. A1 is issued without any reference to the justification based on standards followed by



the Department. The 1st applicant is now aged 59 years and due to retire in May, 1999. They are entitled to be treated as full time casual mazdoors and conferred with temporary status and regularised in Group D post under the 1st respondent. The applicants will be retiring from service after a life-time of work without any benefit including pensionary benefits. The applicants are entitled to be treated as full-time casual labourers and conferred with temporary status with effect from 1989. They are also entitled to be regularised in Group D vacancies that arose under the 1st respondent.


3. Respondents resist the OA contending that as per D.G. Posts, New Delhi letter No.45-95/87-SPB 1 dated 12.4.91, a full time casual labourer would be conferred with "Temporary Status" if he/she continues to be currently employed and has rendered continuous service of atleast one year. The 1st applicant will complete one year of full time service by 31.12.99 only. In the meanwhile she attained the age of 60 years on 23.5.99 rendering herself ineligible for temporary status after that date. Temporary status cannot be conferred on a casual labourer who has completed 60 years of age as that is the superannuation age for temporary status Group D employees as per DG, Department of Posts letter No.45-48/92-SPB 1 dated 23.2.93. The 2nd applicant is having 6 hours duty only per day. She is not a full time casual labourer. Part time casual labourers are not eligible for conferment of temporary status as per the rules. Both the applicants are not eligible to be conferred with temporary status. Recruitment of Group D employees is required to be made from the Extra Departmental Agents in the whole Division in preference to casual labourers.



4. The 2nd relief sought is to declare that the applicants are entitled to be treated as full-time Sweeper/Scavenger/Cleaner/Water Carrier in the Office of the 1st respondent and to direct the respondents to regulate their benefits including wages. So from this, what appears is that both the applicants are not full time Sweepers/Scavengers/Cleaners/Water Carriers. A1 clearly says that the duty hours of the 1st applicant is increased to 8 hours. The learned counsel appearing for the applicants submitted that those having 8 hours duty are full time casual labourers and not part-time casual labourers. There is no question of declaring that the 1st applicant to be treated as full-time casual labourer since as per A1, the working hours is increased to 8 hours and as per the submission of the learned counsel for the applicants, one who is doing 8 hours work is a full-time casual labourer.


5. The 1st ground raised is that A1 and A4 are illegal and arbitrary and the applicants are entitled to be treated as full-time casual mazdoors retrospectively with effect from 1981 and paid their present wages on that basis by notional fixation. There is absolutely no material to show that they are entitled to be treated as full-time casual labourers with effect from 1981.

6. The other ground raised is that the applicants are entitled to be treated as full-time casual labourers and conferred with temporary status with effect from 1989. Those persons, going by the submission made by the learned counsel appearing for the applicants, doing work for 8 hours only are the full-time casual labourers. There is no material to hold that the applicants are doing 8 hours work from 1989 and they are entitled to be conferred with temporary status with effect from 1989.



7. The learned counsel appearing for the applicants drew our attention to the order in OA 1422/96. In that OA, the 3rd respondent was directed to have the work load of the applicant assessed by a competent officer and thereafter to take a decision on the claim of the applicant for wages for 8 hours duty a day and also for grant of temporary status and regularisation in accordance with the instructions. The 2nd applicant is claiming that by considering the nature of work, she is entitled to get 8 hours duty. That particular ruling is no application to the facts of the OA at hand. We do not find any ground to interfere in the impugned orders. Accordingly, the OA is dismissed.

8. The learned counsel appearing for the respondents drew our attention to para 3.2 of the reply statement and submitted that a casual labourers who has not attained temporary status can continue to work as long as he is healthy and there is no restriction with regard to the age. At the same time in para 3.2 of the reply statement, it is stated that temporary status cannot be conferred on casual labourers who have completed 60 years of age as that is the superannuation age for temporary status Group D as per DG, Department of Posts letter No.45-48/92-SPB 1 dated 23.2.93. So, it is clear that a Group D employee has to retire at the age of 60 years and that temporary status cannot be conferred on casual labourers who have completed 60 years of age. It is also stated in para 3.2 of the reply statement that both the applicants are not entitled to the temporary status as prayed for. The learned counsel for respondents submitted that there are rules enabling casual labourers without any age limit to work as long as physically fit to perform the duties. If that is the position, it will negate all the instructions issued by the DG, Posts,

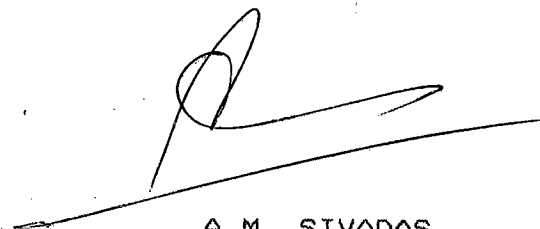


New Delhi on the subject for grant of full-time status to the casual labourers by combining of duties of the casual labourers, grant of temporary status and grant of regularisation as Group D. This is a matter to be looked into by the DG, Posts, New Delhi. .

Dated the 7th August, 2001.



G. RAMAKRISHNAN,
ADMINISTRATIVE MEMBER



A.M. SIVADAS,
JUDICIAL MEMBER

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List of Annexures referred in the Order :

1. Annexure A1: True copy of the memo No.18/98-99 dated 23.12.98 issued by the 1st respondent.
2. Annexure A4: True copy of the memo No.EST-3/2006 dated 22.9.1998 issued by the Postmaster General, Calicut.